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VOLUME I

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Supreme Court of the United States

OCTOBER TERM, 1956

No. ~~101~~ 6

AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL., APPELLANTS,

vs.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, ET AL.

No. ~~110~~ 8

RAILWAY LABOR EXECUTIVES' ASSOCIATION, ET AL., APPELLANTS,

vs.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, ET AL.

APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

NO. 101 FILED MAY 22, 1956
NO. 110 FILED MAY 24, 1956
PROBABLE JURISDICTION NOTED OCTOBER 8, 1956

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APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

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J. F. Pasch—		
direct	2198	1627
cross	2206	1632
Joe Bos—		
direct	2214	1638
cross	2225	1645
redirect	2249	1661
recross	2251	1663
Offers in evidence	2253	1664
Testimony of A. W. Hobbs—		
direct	2253	1665
cross	2287	1689
redirect	2312	1707
Offer in evidence	2315	1709

	Original	Print
Record from U.S.D.C. for the District of Columbia —Continued		
Transcript of proceedings of May 21, 1952—Continued		
Testimony of A. W. Hobbs—		
recross	2316	1710
George H. Wolter—		
direct	2317	1711
cross	2325	1717
redirect	2337	1725
Offer in evidence	2338	1726
Transcript of proceedings of May 22, 1952	2339	1726
Testimony of Don Smiley—		
direct	2339	1726
cross	2348	1733
redirect	2358	1740
recross	2359	1740
Robert Bothell—		
direct	2361	1742
cross	2377	1753
Don Smiley—		
redirect	2385	1759
Offers in evidence and objections thereto	2387	1760
Testimony of Don Smiley—		
recross	2388	1761
Joseph E. Ludden—		
direct	2388	1761
cross	2394	1766
redirect	2404	1772
Offer in evidence	2405	1773
Offers in evidence and objection thereto	2405	1774
Testimony of L. L. Cole—		
direct	2410	1777
John Liston—		
direct	2416	1781
cross	2427	1789
redirect	2434	1794
recross	2437	1796
John F. Morrison—		
direct	2440	1799
Exhibits:		
Secretary's certificate (omitted in printing)	2444	1802
1—The Chicago Assn. of Commerce and Industry, Bulletin No. 233, entitled "Way to Ship", January 1952	2445	1803
2—The Chicago Assn. of Commerce and Industry Bulletin, entitled "Way-To-Ship" from Chicago, Motor Truck Section No. 62 (Excerpts from)	2460	1818
5, 6, 7—Lists showing Drivers Daily Manifest for Pickups—The Rock Island Motor Transit Company	2491	1849

Exhibits—Continued	Original	Print
8—Graph showing Tons Transported in Intercity Service, 1944–1950	2494	1851
9—Graph showing Average Haul in Miles, 1944–1950	2495	1852
10—Graph showing Average Load in Tons, 1944–1950	2496	1854
11—Balance sheet statement, January 31, 1952, of The Rock Island Motor Transit Company	2497	1856
12—Terminal Cost Survey, Des Moines Motor Carriers, January 29 to February 3, 1951, Inc.	2498	1859
14—Statement of Profits or Losses before Income Tax, Years 1950, 1951 and January and February, 1952, The Rock Island Motor Transit Company	2499	1861
15—7 Lists showing various motor carrier revenues derived from operations between different points of origin and destination	2500	1862
16—Summary of interstate shipments received from connecting line carriers at Chicago, Ill., etc.—The Rock Island Motor Transit Company	2506B	1869
17—Abstract of shippers making shipments from Twin Cities to various towns during the month of February, 1952	2507	1870
18—Minutes of Meeting, Industrial Traffic Council, The Chicago Assn. of Commerce and Industry, held March 6, 1952	2509	1872
19—Transcript of shipments received from connecting carriers at Chicago, Ill. during the months of January, February, March and April, 1951, etc.	2521	1890
20—Daily record of Terminal Operations, The Rock Island Motor Transit Company	2529	1898
21—Petition of Lewis Commercial Club	2534	1904
22—Graph showing Tons Transported in Intercity Service, 1946–1950, etc.	2536	1906
23—Graph showing Indices of Tons Transported in Intercity Service, 1938–1949, etc.	2537	1909
24—Affidavit of Fred J. Millett	2538	1910
25—Map of State of Iowa bearing certain legend showing the lines of the Rock Island Motor Transit Company and the routes of certain connecting carriers, etc.	2547	1919
26—Letter from Keeshin Motor Express Co., Inc. to "Carriers doing business with Keeshin Motor Express," dated March 18, 1952, subject "Receiving freight from connecting lines at Cedar Rapids, Iowa."	2548	1920
27—Certificate of Public Convenience and Necessity, No. MC–47619, Issued to Iowa-Nebraska Transportation Co., Inc.	2549	1921
28—Financial Statement as of March 31, 1952, Transportation Co. Inc.	2552	1926
29—Operating Statement as of March 31, 1952, Transportation Co. Inc.	2553	1927

Exhibits—Continued	Original	Print
30—List of Shipper Witnesses who appeared in support of Rock Island Motor Transit Application, March 18, 1952 thru April 1, 1952	2554	1928
31, 32, 33—Actual delivery receipts, billed at Omaha terminal, Des Moines terminal, Chicago terminal representative of the type of shipments and points served	2562	1939
34—Certificate of Public Convenience and Necessity, No. MC–44055 issued to Bos Truck Lines, Incorporated, Marshalltown, Iowa	2577	1957
35—Balance Sheet and operating statement as of March 31, 1952, Bos Truck Lines, Inc.	2584	1968
36—Certificate of Public Convenience and Necessity, No. MC–53980 issued to Des Moines Transportation Company, Inc., Des Moines, Iowa	2585	1969
37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48—Manifest sheets, typical of the type of shipments which are handled by Des Moines Transportation Company, Inc. for January and February 1951 and 1952, to points located on U. S. Highway 6	2591	1979
49—Analysis of Revenue, Profit, Tons handled and equipment by years	2603	1991
50—Certificate of Public Convenience and Necessity, No. MC–111154 issued to P & W Truck Line	2604	1992
51—Document showing Tonnage on Motor Freight for January 1, 1951 to April 1, 1951	2612	2003
52—Document showing Tonnage on Motor Freight for January 1, 1952 to April 1, 1952	2613	2004
53—On letterhead of Maher Bros. Transfer—Tonnage on Motor Freight for January 1 to April 1, 1951 and January 1 to April 1, 1952 (Summary of information which appears in Exhibits 51 and 52)	2613a	2005
54—Advertising map headed, Gateway Transportation Company, with typical markings showing Interstate routes	2614	2007
Late filed exhibits:		
55—Transcript of testimony taken in Docket MC–29130, Sub 69, temporary authority proceeding, before the I.C.C., at Des Moines, Iowa, commencing September 24, 1951 thru October 3, 1951	2616	2009
Carl Reed	2617	2009
E. S. Petersen	2620	2012
cross	2654	2039
redirect	2673	2053
recross	2674	2054
Birney Baker—		
cross	2680	2058

	Original	Print
Late filed exhibits—Continued		
55—Transcript of testimony taken in Docket MC–29130, Sub 69—Continued		
Fred Millett	2689	2064
cross	2694	2069
redirect	2696	2070
56—Statement of Intercity Tonnage Handled, Truck Load and Less Truck Load, etc.	2700	2073
57—Statement of Intercity Tonnage Handled by Motor Carriers, etc.	2701	2074
58—Statement of Average Load Reported in Annual Reports of Motor Carriers, etc.	2702	2075

[fol. 1] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 2] Secretary's Certificate (omitted in printing).

[fol. 3] [File endorsement omitted]

BEFORE THE INTERSTATE COMMERCE COMMISSION

Served April 21, 1953

NOTICE TO THE PARTIES

Exceptions, if any, must be filed with the Secretary, INTERSTATE COMMERCE COMMISSION, Washington, D. C., and served on all other parties in interest, within 20 days from the date of service shown above, or within such further period as may be authorized for the filing of exceptions. At the expiration of the period for the filing of exceptions, the attached order will become the order of the Commission and will become effective unless exceptions are filed seasonably or the order is stayed or postponed by the Commission. To be seasonably filed, exceptions must reach the Commission or or before the date they are due. If exceptions are filed, replies thereto may be filed within 10 days after the final date for filing exceptions. If the recommended order becomes effective as the order of the Commission, a notice to that effect, signed by the Secretary, will be served.

No. MC-29130 (Sub-No. 70)

THE ROCK ISLAND MOTOR TRANSIT COMPANY COMMON CARRIER APPLICATION

Submitted Decided

Public convenience and necessity found to require operation by applicant as a common carrier by motor vehicle, in interstate or foreign commerce, of general commodities, with exceptions, between certain points in Illinois,

Iowa, and Nebraska, over regular routes, serving designated intermediate and off-route points. Issuance of a certificate approved, and application in all other respects denied.

A. B. Howland and *J. H. Martin* for applicant.
D. C. Nolan, Henry A. Archambo, and *R. H. Heinecamp* for interveners in support of the application.
Albert B. Rosenbaum, Rex H. Fowler, Homer E. Bradshaw, Eugene L. Cohn, Joseph E. Ludden, Stephen Robinson, Walter V. Huston, and *William A. Landau* for protestant and interveners in opposition.

REPORT AND ORDER

RECOMMENDED BY T. K. CARPENTER, EXAMINER

By application filed October 26, 1951, as amended, The Rock Island Motor Transit Company, hereinafter called applicant or Motor Transit, of Chicago, Ill., seeks a certificate authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, of general commodities, except nitroglycerin, commodities of unusual value, household goods as defined in *Practices of Motor Common Carriers of Household Goods,* 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, [fol. 4] (1) between Chicago, Ill., and Omaha, Nebr., from Chicago over U. S. Highway 34 to junction of Illinois Highway 92, thence over Illinois Highway 92 to junction of U. S. Highway 6, and thence over U. S. Highway 6 to Omaha, (2) between Iowa City, Iowa, and Cedar Rapids, Iowa, from Iowa City over U. S. Highway 218 to Cedar Rapids, (3) between Harlan, Iowa, and Omaha, Nebr., from Harlan over Iowa Highway 64 to Council Bluffs, Iowa, and thence over U. S. Highway 6 to Omaha, (4) between Avoca, Iowa, and Atlantic, Iowa, (a) from Avoca over U. S. Highway 59 to junction U. S. Highway 6, and thence over U. S. Highway 6 to Atlantic, and (b) from Avoca over Iowa Highway 83 to Atlantic, and (5) return in each instance over the same routes, serving the intermediate points of East Moline, Silvis, Moline, and Rock Island, Ill., and Bettendorf, Davenport, Durant, Wilton,

Jct., Atalissa, West Liberty, Iowa City, Coralville, Tiffin, Homestead, Marengo, Ladora, Victor, Brooklyn, Grinnell, Newton, Colfax, Altoona, Des Moines, Dexter, Stuart, Menlo, Casey, Adair, Anita, Wiota, Atlantic, Oakland, Council Bluffs, Weston, Underwood, Minden, Neola, Corley, Walnut, Marne, and Hancock, Iowa, and the off-route points of Walcott, Muscatine, Stockton, Moscow, Oxford, South Amana, Malcom, Kellogg, Mitchellville, and Shelby, Iowa.

The application was referred to joint board No. 136 for hearing and the recommendation of an appropriate order thereon. The States of Illinois and Nebraska have waived their right to participate in this proceeding, as the joint board member from each of those States failed to appear at the hearing. The joint board member from the State of Iowa after opening the hearing waived further participation in the proceeding by that State. Hearing before an examiner was held on March 18 through April 1, 1952, and on May 20, 21, and 22, 1952, at Des Moines, Iowa. The Regular Common Carrier Conference, American Trucking Associations, Inc., and eleven motor carriers oppose the granting of the application.

Applicant is a wholly owned subsidiary of the Chicago, Rock Island and Pacific Railroad Company, hereinafter called Rock Island. It conducts motor common carrier regular-route operations in Illinois, Indiana, Iowa, Nebraska, Minnesota, Missouri, Kansas, Texas, Tennessee, Arkansas, and Oklahoma, subject in certain instances to various restrictions affecting different route segments. This proceeding primarily relates to applicant's authorized routes within the State of Iowa, (except those between Cedar Rapids and Decorah, between Muscatine and Kalona, and between Wellman and West Chester) and those extending beyond to Chicago, Ill., Omaha, Nebr., Minneapolis-St. Paul, Minn., and Kansas City, Mo. At the outset a brief history of the transactions and proceedings leading up to this proceeding will be helpful.

History

In No. MC–F–445, *Rock Island M. Transit Co.—Purchase —White Line M. Frt.*, 5 M.C.C. 451, decided April 1, 1938, Division 5 approved and authorized the purchase by Motor

Transit of the operating rights and property of White Line Motor Freight Company, Incorporated, and White Line Trucking Company, hereinafter called collectively the White Line, including the right to operate pending determination of the respective "grandfather" applications of these companies and the right, so far as operating rights the transfer of which was therein authorized was concerned, to any certificates which may be issued as a result of such applications, subject to certain conditions, including (1) that Motor Transit shall not render service from or to, or interchange traffic at, any point other than a station on the line of Rock Island, and (2) that the authority herein granted [fol. 5] shall be subject to such further limitations, restrictions, or modifications as the Commission may find necessary to impose or make in order to insure that service shall be auxiliary to or supplementary of train service of Rock Island and shall not unduly restrain competition. The acquisition of these rights gave Motor Transit its first operating authority, in interstate or foreign commerce, over the route between Chicago and Omaha, 500 miles, and over two short branch routes to Muscatine and Cedar Rapids. Motor Transit proposed to utilize such authority in the conduct of three distinct types of service, (1) a coordinated rail-truck service, to be auxiliary to existing all-rail service moving merchandise cars to certain concentration or set-out points, and then making distribution by truck, (2) an all-truck service on short hauls between stations, where feasible and economical, as a substitute for rail service, and (3) an all-truck service restricted to points on the railroad, but in addition to rather than a substitute for rail service.

In No. MC–F–445, *Rock Island M. Transit Co.—Purchase —White Line M. Frt.*, 15 M.C.C. 763, decided March 6, 1939, Division 5 approved and authorized acquisition by the Rock Island and its trustees from the Rock Island Improvement company, of control of Motor Transit by purchase of a majority of capital stock of the latter, pursuant to condition imposed in the prior report 5 M.C.C. 451.

Motor Transit consummated the authorized transaction, filed tariffs with the Commission, and took over the operation in April, 1938. A certificate was issued to Motor Tran-

sit in No. MC–29130 on December 3, 1941, authorizing the transportation of general commodities, with exceptions, and covering only that portion of the claimed "grandfather" rights between Omaha and Silvis, from Omaha over U. S. Highway 6 to its junction with Illinois Highway 92, and thence over Illinois Highway 92 to Silvis, and return over the same route, and the off-route points of Cedar Rapids, Muscatine, Bettendorf, and Oxford. The remainder of the claimed "grandfather" rights were denied. This certificate did not contain any restriction on the kind of service authorized, but did specifically provide that it was subject to the condition or reserved right of the Commission later to impose such restrictions which might be found necessary to insure that the service should be limited to that which is auxiliary to, or supplemental of, train service of Rock Island and shall not unduly restrain competition.

In No. MC–29130 (Sub-No. 2), *Rock Island Motor Transit Co., Extension—Eldon, Iowa,* 33 M.C.C. 349, decided May 6, 1942, a certificate was granted to Motor Transit under section 207 of the Interstate Commerce Act authorizing operation as a motor common carrier of general commodities, with exceptions, between Silvis and Chicago, from Silvis over Illinois Highway 92 to its junction with U. S. Highway 34, and thence over U. S. Highway 34 to Chicago, and return over same route, serving no intermediate points, and subject to five restrictions, including one limiting the authorized service to that which is auxiliary to, or supplemental of, rail service. Subsequently the certificate was issued.

In No. MC–F–2327, *Rock Island Motor Transit Co.—Purchase—Frederickson,* 39 M.C.C. 824, decided November 28, 1944, Division 4 authorized Motor Transit to purchase the general commodity operating rights of D. H. Frederickson and J. H. Frederickson, doing business as J. H. Frederickson & Son, hereinafter called the Frederickson Line, covered by the certificate issued in No. MC–530 on June 7, 1941, between Harlan and Omaha, from Harlan over Iowa [fol. 6] Highway 64 to Council Bluffs, thence across the Missouri River to Omaha, and return over same route, serving the intermediate and off-route points of Avoca, Shelby,

Minden, Neola, Underwood, Weston, and Council Bluffs, and the certificate issued in No. MC–530 (Sub-No. 1) on March 15, 1943, between Avoca and Atlantic, from Avoca over U. S. Highway 59 to its junction with U. S. Highway 6 near Oakland, thence over U. S. Highway 6 to Atlantic, and return over Iowa Highway 83 to Avoca, serving the intermediate and off-route points of Hancock, Atlantic, Oakland, Marne, and Walnut. In authorizing this transaction, Division 4 imposed no restriction on the kind of service which Motor Transit could render under the rights to be acquired, nor did it impose any condition reserving the power to impose restrictions in the future. This transaction was consummated on January 22, 1945. No certificate was issued and by order of February 5, 1945, on the Commission's own motion, this proceeding and Nos. MC–F–445 and MC–29130 were reopened for reconsideration on the existing records to determine (a) the conditions or restrictions, if any appear necessary, which should be imposed to insure that the motor-carrier service performed by Motor Transit is limited to that which is auxiliary to, or supplemental of, rail service of Rock Island, and (b) the conditions, if any appear necessary, which should be imposed so as to make the authority granted Motor Transit subject to such further conditions and restrictions as the Commission may find necessary to impose in order to insure that the service shall be auxiliary to, or supplemental of, such rail service.

In No. MC–F–445, *Rock Island M. Transit Co.—Purchase —White Line M. Frt.*, 40 M.C.C. 457, decided March 4, 1946, the Commission, Commissioners Mahaffie and Miller dissenting, imposed the following restrictions and conditions on the certificate issued in No. MC–29130 to the extent that it embraces the operating rights acquired from the White Line and on the certificate to be issued representing the operating rights acquired from the Frederickson Line:

1. The service to be performed by The Rock Island Transit Company shall be limited to service which is auxiliary to, or supplemental of, train service of The Chicago, Rock Island and Pacific Railway Company.

2. The Rock Island Motor Transit Company shall not

render any service to, or from or interchange traffic at any point not a station on the rail line of The Chicago, Rock Island and Pacific Railway Company.

3. No shipments shall be transported by The Rock Island Motor Transit Company between any of the following points, or through, or to, or from, more than one of said points: Omaha, Nebr., Des Moines, Iowa, and collectively Davenport and Bettendorf, Iowa, and Rock Island, Moline, and East Moline, Ill.

4. All contractual arrangements between The Rock Island Motor Transit Company and The Chicago, Rock Island and Pacific Railway Company shall be reported to us and shall be subject to revision, if and as we find it to be necessary in order that such arrangements shall be fair and equitable to the parties.

5. Such further specific conditions as we, in the future, may find it necessary to impose in order to insure that the service shall be auxiliary to, or supplemental of, train service.

[fol. 7] Subsequently on June 9, 1947, these proceedings were reopened for further hearing and such hearing was held at Chicago. A proposed report was waived. In No. MC–F–445, *Rock Island M. Transit Co.—Purchase—White Line M. Frt.,* 55 M.C.C. 567, decided April 11, 1949, the Commission on further hearing, Chairman Mahaffie, and Commissioners Miller and Mitchell dissenting, affirmed its findings in 40 M.C.C. 457. At this hearing Motor Transit entered a special appearance solely to contest the Commission's jurisdiction in assigning the proceedings for such hearing. It presented no witnesses and offered no evidence.

After this last decision of the Commission, Motor Transit filed a complaint in the United States District Court N. D. Illinois E. D. to set aside, annul and enjoin the order of the Commission. The three judge statutory court unanimously set aside, annulled, and permanently enjoined the Commission from enforcing its orders of March 4, 1946, and April 11, 1949. *Rock Island Motor Transit Co.* v. *United States,* 90 F. Supp. 516, decided November 29, 1949. The matter was then appealed to the United States Supreme Court and that court reversed the judgment of the

District Court and remanded the proceeding with directions to dismiss the complaint. Justices Black, Douglas, Jackson, and Burton dissented. *United States* v. *Rock Island Co.* 340 U. S. 419, decided February 26, 1951. This decision did nothing more than hold that, under the circumstances disclosed, the Commission had the power to impose the restrictions and conditions set forth above.

A certificate was issued to Motor Transit on September 11, 1951, imposing the above-described restrictions and conditions in connection with the authorized operations over the routes of the White Line and the Frederickson Line. Prior to the issuance thereof, applicant filed an application for temporary authority for 180 days. By order of August 30, 1951, in No. MC–29130 (Sub-No. 69TA) it was granted such authority for a period of 60 days by the Commission to transport general commodities, with exceptions, over the routes here under consideration, serving the intermediate and off-route points named above, except Coralville, Weston, and Malcom, subject to a maximum weight limit of 2,000 pounds on each shipment, and the restriction that no shipment may be transported between Chicago and Omaha, nor between any of the following points, or through, or to, or from, more than one of said points: Omaha, and collectively, Davenport, Bettendorf, Rock Island, Moline, and East Moline. Thereafter, this application with respect to the remainder of 120 days was assigned for hearing, which hearing required eight days. By order (no report in this matter) of October 30, 1951, temporary authority for an additional 120 days from November 3, 1951, was granted, authorizing service at the intermediate and off-route points mentioned above and also Coralville and Weston, subject to a maximum weight limit of 5,000 pounds on each shipment, and the key point restriction just referred to. This temporary authority, by order of February 25, 1952, was continued indefinitely pending determination of the application in the captioned proceeding for permanent authority.

Prior to the imposition of the restrictions and conditions in the certificate issued September 11, 1951, applicant operated under the White Line rights for a period of 14 years, and under the Frederickson Line rights for a period

of 7½ years, in substantially the same manner as other motor common carriers operating in the Iowa area not affiliated with a railroad. The White Line rights are the heart of applicant's operations, not only in Iowa, but also in other States east, west, north, and south thereof, because it is necessary to transport all interstate traffic (1) [fol. 8] moving through the Davenport or Omaha gateways over the entire length of U. S. Highway 6 in Iowa or a segment thereof, (2) moving between the Kansas City gateway and points north, east, or west of Des Moines, over a segement of that highway, and (3) moving between the Minneapolis-St. Paul gateway and points south, east, and west of Des Moines, over a segment of that highway: The above-quoted restrictions not only affected the White Line rights, but also all other rights held by applicant in Iowa and other States which are not similarly restricted. For example, applicant, in addition to the White Line and Frederickson Line rights, holds certificates in Iowa that do not contain a key-point or the auxiliary to, or supplemental of, train service, restrictions, (1) between Homestead and Cedar Rapids, (2) between Iowa City and Wellman, (3) between Clinton and Lineville, through Davenport, Muscatine, Washington, Fairfield, Ottumwa, Eldon, Unionville, Centerville, Plano, Numa, Seymour, Promise City, Corydon, Allerton, and Clio, (4) between Des Moines and Ottumwa through Pella, Oskaloosa, Fremont, and Eddyville, (5) between Des Moines and Lamoni (the Kansas City route) through Indianola and Osceola, (6) between Des Moines and Dexter through Booneville, (7) between Casey and Menlo, on the one hand, and, on the other, Guthrie Center, over Iowa Highway 25 and also through Glendon, (8) between the junction of U. S. Highways 6 and 71, just west of Wiota, and Audubon, (9) between the junction of U. S. Highway 6 and Iowa Highway 48 southwest of Atlantic and Omaha through Griswold and Treynor, and (10) between Des Moines and Northwood (the Minneapolis-St. Paul route) Cambridge, Ames, Collins, Nevada, Iowa Falls, and Mason City. The only portions of applicant's authority in Iowa that were originally subjected to these restrictions are: (1) between Cedar Rapids and Decorah, (2) between Muscatine and

Kalona through Lone Tree, and (3) between Wellman and West Chester.

As indicated, the White Line and Frederickson Line rights, except those granted in No. MC–530 (Sub-No. 1), resulted from proceedings under section 206(a) of the Interstate Commerce Act. The excepted proceeding involved an application under section 207(a) of the act. The restrictions and conditions set forth above were imposed on the certificate and authorities previously issued or granted, and as a result thereof applicant filed the captioned application for authority under section 207(a) of the act seeking the identical authority it possessed prior to September 11, 1951, when the restrictions and conditions were imposed. The purpose of this application is to obtain operating authority not subject to restrictions or conditions that prevent applicant from operating as a motor carrier having no affiliation with a railroad.

Fitness

Applicant's operations are under the direct control of W. F. Peterson, General Manager. He is an able and experienced operator. Its balance sheet as of January 31, 1952, shows assets of $1,858,620, and liabilities of $1,758,620, excluding capital stock, but including $873,527 advances payable to Rock Island, $250,000 long term bank loan, and $149,764 unappropriated surplus. As of October 26, 1951, applicant owned and operated 152 trucks, 228 tractors, 303 trailers, 4 service trucks, and 4 busses. It is fit and able, financially and otherwise, properly to conduct the proposed operation.

Applicant's Testimony

The President, Vice-President, and Treasurer of Rock Island are the only officers of the railroad that are also [fol. 9] officers of Motor Transit. The Vice-President receives $208 a month of his salary from Motor Transit. The General Manager and General Freight Agent of Motor Transit receive one-third and one-fifth of their salaries, respectively, from Rock Island. Although Motor Transit is a subsidiary of Rock Island, it operated prior to Sep-

tember 11, 1951, under permanent authority in substantially the same manner as any independent motor carrier transporting less-than-truckload and truckloads of general freight over practically all of its authorized routes in Iowa, and in addition it also transported rail-billed freight. Since that date its operations have been conducted under temporary authority as curtailed by the maximum weight limitations of 2,000 and 5,000 pounds per shipment and the key-point restrictions above described. These restrictions naturally affected the volume of traffic transported by Motor Transit. During the first six months of 1951, it handled 1,402 truckloads and during the last six months of that year 716 truckloads were transported. A substantial part of this decline in truckload traffic is attributed to the restrictions.

Over the years Motor Transit enjoyed interstate traffic received from connecting motor carriers at various points for delivery at Iowa points involved in this proceeding. Some of this traffic, although routed for delivery at such destination points by a carrier other than applicant, was delivered to applicant by the connecting carrier because the designated delivering carrier would not accept the shipments, or the carrier in possession chose to disregard the routing. During January, February, March, and April, 1951, applicant received 233 such shipments at Chicago. Some of it was even turned over to applicant by carriers authorized to serve the destination points, because they deemed it unprofitable to handle the shipments. This occurred frequently when light or bulky articles comprised the shipment. After the weight limitations were imposed in the temporary authorities, and to some extent prior thereto by the efforts of certain connecting lines in discontinuing the delivery of interchange traffic to applicant, the volume of less-than-truckload traffic declined. For example, the traffic received by applicant during November and December, 1951, (5,000 pound weight limitation in effect) at the following points was less than the tonnage received in the same months of 1950, after elimination of all shipments weighing over 5,000 pounds, by the amounts indicated: Chicago 432,734 pounds, Davenport 136,683 pounds, Des Moines 89,357 pounds, and Omaha 55,123

pounds. During the same period there was an increase of 13,984 pounds received at Cedar Rapids. From December 1, 1951, to March 4, 1952, the 5,000-pound restriction required applicant to refuse 38 shipments ranging from 5,600 to 34,000 pounds. Some shippers have found it necessary to make more than one shipment out of one weighing in excess of 5,000 pounds in order to get it through to destination.

The gross revenue earned by applicant on motor carrier traffic originating at the terminal points of Chicago, Rock Island-Moline, Davenport, Cedar Rapids, Des Moines, and Omaha from September 1, 1951, to February 29, 1952, was 23.7 percent ($206,821) less than the revenue earned in the same period of 1950-1951. In 1950 applicant's earned profit before income was $160,586, and in 1951 it was $58,582 (deficit). The profits for the months of August, 1950 and 1951, respectively, were $35,465 and $11,629. The latter figure represent- the profit in the month immediately preceding the imposition of the weight limitation on the temporary authority granted August 30, 1951. September, October, and November are usually applicant's best revenue producing months. In those months of 1950 its profits before income taxes totaled $125,802 as compared with $18,658 (deficit) for the same period in 1951. In December, 1950, such profit was $681 (deficit) and in December, 1951, it was $51,553 (deficit).

[fol. 10] The only realty owned by Motor Transit is a garage at Des Moines, which stands on ground owned by Rock Island. Its terminals are portions of the freight house facilities of Rock Island, which were not being used owing to the decline in less-than-carload traffic. These terminals are leased at a rental of 6 percent of the depreciated value of the property. Other facilities used by applicant are purchased or leased from independent commercial enterprises. The Chicago terminal is 1,200 feet long and 90 feet wide with 28 doors. There are 12 office employees, 18 dockmen, and 24 city drivers under the agent's jurisdiction at that point. Applicant has interline arrangements with 120 motor carriers serving Chicago. Since the weight limitations were imposed the tonnage has declined about 45 percent. At Davenport there are 8 office employees

and 48 dockmen and drivers, including over the road drivers. The dock is about 250 feet long with 24 doors. This terminal serves the Tri-City area of Bettendorf, Rock Island, Moline, and East Moline, and freight is interchanged with connecting motor carriers in that area. The weight limitation has prevented applicant from accepting certain shipments of more than 5,000 pounds and in truckloads from such carriers. The employees at Iowa City are 2 in the office, 3 dockmen, 5 city and 2 road drivers. Since August 30, 1951, there has been some decline in the outbound traffic and a larger decrease in the inbound shipments amounting to a cut of approximately 25 percent in revenue. Shipments are interchanged with one motor carrier at this point. The terminal at Cedar Rapids has facilities for loading or unloading five trucks at a time and there are 20 employees, not including over the road drivers, at that point. Applicant has substantial docking facilities at Des Moines. Prior to August 30, 1951, it had 62 employees at that point. At the time of the hearing on the application for temporary authority beginning September 24, 1951, the number of employees had been reduced to 43 and by March 28, 1952, a further reduction to 27 had been made. Some interchange of freight is made at Des Moines. The freight facilities at Atlantic occupy a space about 100 feet by 40 feet and 1 clerk and 3 drivers are employed there. One of the drivers is used part time as a dockman. The Omaha terminal has 15 doors and there are 16 employees, not including over the road drivers. As of July 30, 1951, applicant had about 750 persons on its regular payroll and its peak during that year was 883 persons. On March 31, 1952, it had between 700 and 800 employees. At the time the Commission imposed the five restrictions and conditions quoted above, the General Manager of applicant estimated that it would be necessary to lay off 222 employees, but since observing the results therefrom for a period of 7 months he is of the opinion that a much greater reduction in the number of employees (up to 350) must be made in the event the instant application is not granted. The employees were represented by counsel at the hearing and they support this application.

Appendix A attached lists the points on U. S. Highway 6, (White Line) except as noted, in station order west from East Moline to Omaha, and Appendix B shows the points served by applicant under the Frederickson Line authority, which will be helpful in following the discussion of Motor Transit's operations. Insofar as here material, the daily, except Sunday, and as otherwise noted, operations of Motor Transit consist of: (1) from Chicago between 7:30 and 9:00 p.m. 2 units of equipment to Des Moines proper, 1 unit through Des Moines peddling all points west thereof to Council Bluffs, 1 unit through Des Moines to St. Paul peddling points north of Des Moines, 1 unit to Davenport proper, 1 unit to the Tri-Cities proper, 1 unit through Davenport to Iowa City peddling all points west of Davenport, and 1 unit to Cedar Rapids through Iowa City and serving that point; (2) from Davenport at 7:00 a.m. 1 unit to Atalissa with 10,000 to 14,000 pounds, of which 30 percent is rail-billed freight, peddling all intermediate and [fol. 11] off-route points on outbound trip and picking up 300 to 2,000 pounds on return trip, which is completed between 4:30 and 6:30 p.m., 1 unit to Cedar Rapids, through Iowa City, peddling Muscatine, Nichols, and Lone Tree, points on a route south of U. S. Highway 6, and 1 unit to Des Moines through Ottumwa, a route south of U. S. Highway 6, peddling all intermediate points, (3) from Iowa City at 8:00 a.m. 1 unit to Victor with 3,000 to 17,000 pounds, of which 20 percent is rail-billed freight, peddling intermediate and off-route points and picking up about 500 pounds on return trip, which is a 5 day operation unless the tonnage requires additional service on Saturday, and 1 unit at 8:00 a.m. to Wellman, serving Kalona, points south of U. S. Highway 6, with 10,000 to 20,000 pounds, of which 20 percent is rail-billed freight, and this unit returns empty except around the holidays when dressed turkeys move from Wellman; (4) from Des Moines at 7:00 a.m. 1 unit to Colfax, peddling Altoona and Mitchellville, handling 3,000 to 5,000 pounds and picking up 7,000 to 8,000 pounds on the return trip, which arrives at Des Moines between 6:00 and 7:00 p.m., (5 days a week and Saturday if freight warrants), 1 unit at 8:00 to 10:00 p.m. to Newton where the trailer is dropped and

one picked up for movement to Chicago and stops are made at Grinnell and Iowa City to pick up Chicago freight (The counterpart of this run on the westbound trip drops a trailer at Newton and picks one up for Des Moines), 1 unit at 10:00 p.m. to Grinnell, peddling Kellogg, and picking up on return trip arriving Des Moines between 4:00 and 5:00 p.m. 1 unit to Davenport serving Brooklyn, Marengo, Iowa City, Lone Tree, and Nichols, dropping the trailer at Muscatine and picking up one for movement to Davenport (There is a corresponding operation westbound), 1 unit at 7:00 a.m. to Anita with 10,000 to 12,000 pounds, peddling Stuart, Dexter, Menlo, Casey, and Adair, and it returns empty, but prior to the imposition of the restriction this unit picked up on the return trip from 16,000 to 20,000 pounds, 1 unit at 3:00 a.m. to Audubon with 10,000 to 15,000 pounds peddling Atlantic and three points on the Audubon branch north of U. S. Highway 6 and it returns with very little freight, 1 unit at 10:00 p.m. to Omaha, peddling Oakland, which is 2 units less than were operated prior to the restrictions and a peddler operation from Des Moines to Griswold and return has been eliminated for the same reason, 2 units at 9:00 p.m. to Cedar Rapids, with very little peddling enroute, and an exchange of trailers at Cedar Rapids, at or shortly after midnight, peddling Marengo, Brooklyn, Grinnell, and Newton on the return trip, 1 unit to Davenport, through Oskaloosa and Fairfield, peddling the smaller intermediate points, 1 unit to Ottumwa, 1 unit to Des Moines from Oskaloosa and return, 1 unit to Des Moines from Fairfield and return, 1 unit at 7:00 a.m. to Mason City, peddling intermediate points, 1 unit straight through to St. Paul, 1 unit to St. Paul peddling Mason City, Iowa, and Albert Lee and Owatonna, Minn., and 2 units at 9:00 to 10:00 p.m. to Kansas City, one of which peddles Indianola the only intermediate point served; (5) 1 unit at 8:00 a.m. from Atlantic peddling Marne, Walnut, Avoca, and Harlan, and return; (6) 1 unit, instead of up to 6 units, prior to August 30, 1951, from Omaha to Des Moines, and 1 unit (16 foot van body instead of a trailer) in place of two peddle operations, one to Des Moines and one to Harlan, peddling Lewis, Treynor, Carson, points on Iowa High-

way 100, south of U. S. Highway 6, Oakland, Hancock, Avoca, Shelby, Minden, Neola, Underwood, and Weston, picking up at those points and returning to Omaha as indicated over Iowa Highway 64; and (7) 3 units from Cedar Rapids to Des Moines, 2 units to Davenport, 1 unit to Chicago, and 1 unit to Ottumwa.

[fol. 12] Ten to fifteen percent of the freight peddled on the runs out of Des Moines is rail-billed freight. Sixty-six percent of the mileage on turn-around peddle runs is operated empty from the standpoint or revenue received. Prior to August 30, 1951, there were from five to seven truckloads of small shipments from Chicago to Des Moines. The restrictions have reduced this movement by one or two truckloads, and the total tonnage by approximately 45 percent. No rail-billed freight is now moving by applicant between Chicago and Des Moines. Formerly the eastbound daily traffic from Des Moines consisted of one or two truckloads of small shipments of rail-billed freight and an equal number of truckloads of like motor-billed freight. Presently the equipment is moving eastbound empty to Chicago due to the restrictions. The restrictions in the existing temporary authority prohibits applicant from transporting shipments between Chicago and Omaha. This requires applicant to deliver westbound shipments to Roberts Transfer at Des Moines for movement to Omaha. Those destined beyond Omaha to points on applicant's lines are redelivered to applicant for movement to destinations. Shipments in the opposite direction are handled in the same manner.

The predominate movement of empty box cars by Rock Island is westbound from Chicago, which means that some of this scarce equipment presently must be utilized for the transportation of eastbound rail-billed freight that formerly moved in the motor truck equipment that is now being returned empty from Omaha and Des Moines to Chicago. Pickup and delivery service is generally rendered by Motor Transit for Rock Island at most of the points involved for which it is paid, under a contract arrangement, an amount per 100 pounds depending on the commodity. At some points, such as Chicago and Minneapolis this type of service is rendered for Rock Island

by cartage companies. Shipments originating at Chicago to be billed by Rock Island are either delivered by the shipper to, or are picked up by the cartage company and hauled to, the Rock Island freight facilities in Chicago proper where they are loaded into cars for movement to Burr Oak, the transfer at Blue Island, Ill., 15 miles, for classification and billing. Prior to the imposition of the restrictions and at present in some circumstances rail-billed freight for movement by truck was and is returned from Burr Oak to Chicago proper and transferred to Motor Transit for movement to destinations. This resulted and results in a substantial delay as compared with motor-billed freight picked up in Chicago by Motor Transit and forwarded the same evening to destinations. When it is necessary, due to key-point restrictions, to move this traffic by rail to Davenport or Des Moines for movement beyond by Motor Transit, it takes two or three days and sometimes longer from Burr Oak to Davenport principally due to the working of the cars through the Silvis, Ill., yard, just east of the Tri-Cities. Similar delays occur on rail-billed freight from Minneapolis and St. Paul to Des Moines and points beyond, and at other points. These delays in handling and in transit result in rail-truck services that do not meet the needs of the public for expedited handling of less-than-truckload traffic. Part of this unsatisfactory service is attributed to the key point restrictions, which prevent Motor Transit from rendering a flexible and economic service.

At points where applicant performs pickup service for Rock Island, the freight is delivered to the railroad agent for billing and if it is to be moved out by Motor Transit, it is redelivered to applicant by employees of Rock Island. Where the dock facilities of Motor Transit are a part of the warehouse of the railroad, this redelivery consists of moving the freight from the portion of the building used by the railroad to the portions used by Motor Transit. The portion used by each carrier is delineated by a painted line on the floor or platform. The operations of Motor [fol. 13] Transit are entirely separate and distinct from those of Rock Island. Each has its own employees and facilities. Neither of these carriers solicits freight for the other. The charges on rail-billed freight delivered

to the consignee by Motor Transit are collected by the Rock Island agent and, of course, charges on motor-billed freight are collected by the Motor Transit agent.

Rail-billed freight whether moving by Rock Island or Motor Transit cannot be interchanged with other motor carriers, because Rock Island is not a party to the tariffs participated in by such motor carriers. The Middle West Motor Freight Bureau publishes the tariffs in effect in the area involved here. The policy of that Bureau is not to establish joint rates with the rail carriers. No railroad is a participating carrier in tariffs published by the Central States Motor Freight Bureau for motor carriers in the Chicago area. The witness was aware of only one agency, the Southwestern Motor Freight Bureau, publishing joint motor-rail rates.

In 1946 Class I Railroads of the United States handled 24,300,000 tons of less-than-carload freight. In 1950 that figure dropped to 10,900,000 tons. Class I truck operators (87.8% thereof) in 1946 in the United States handled 104,700,000 tons of traffic and in 1950 slightly over 200,000,000 tons. The tonnage transported by truck lines in 1941 was approximately double the tonnage transported by them in 1938. There has been a consistent increase between 1941 and 1951 amounting to almost 200 percent. During the period 1941-1946 the less-than-carload tonnage for Class I Railroads increased and then dropped substantially below the 1938 figure in 1950. In the five years from 1926 to 1930 inclusive, the Class I Railroads originated an average 1,279,196,826 tons of freight, carload and less-than-carload. In 1949 they originated 1,224,001,369 tons.

During the years 1945 to 1950, inclusive, the volume of less-than-carload tonnage handled by Rock Island over the system dropped from 496,479 tons to 264,612 tons. The motor-billed freight of Motor Transit in the comparable period varied from 112,468 tons in 1944 dropped to 97,697 tons and gradually increased to 159,348 tons in 1950.

A group of nine motor carriers serving the midwestern territory had a combined tonnage of 755,000 tons handled in 1944 and 1,852,540 tons in 1950. In the comparable period Des Moines Transportation handled 49,871 tons in 1944

and 178,000 tons in 1950. Percentagewise this carrier's volume of business handled increased to a greater extent than the composite figure of the nine selected midwestern carriers. Iowa-Nebraska tonnage in 1944 was 15,421 tons and 43,678 tons in 1950. Merchants Motor Freight, hereinafter called Merchants, a very large operator, transported 127,635 tons in 1944 and in 1950, 277,443 tons. During the period 1944 to 1950 inclusive, the average length of haul for the nine representative midwestern trucking companies rose, from 335 in 1944, to 527 miles in 1950, while the average per-car-haul of Rock Island declined from 354.1 miles to 318.35 miles in the same period, and the average haul of Motor Transit increased only from 165 miles in 1944 to 177 miles in 1950.

During the same period the average load in tons of Des Moines Transportation rose from 9.41 to 12.11 tons, Iowa-Nebraska from 10.03 to 13.35 both of which were greater than the composite average of the selected nine midwest carriers. During the same period the average load hauled by Motor Transit declined.

For the period January 29, to February 3, 1951, a comparative study of the volume of business handled at terminals of selected motor carriers doing business in Des Moines was made. In this period Motor Transit performed pickup and delivery service truckloads in Des Moines on 221,609 pounds of freight and of less-than-truckloads of 1,769,751 pounds. The pickup and delivery service included both rail-billed freight and motor carrier freight. Des Moines Transportation performed pickup and delivery service truckloads of 1,751,134 pounds of freight and less-than-truckload of 1,922,870 pounds.

[fol. 14] Applicant is the only motor carrier holding intrastate rights on the White Line and Frederickson Line routes, except that it does not possess such rights between Des Moines, on the one hand, and, on the other, Dexter, Menlo, and Stuart. Intrastate traffic and rail-billed and motor-billed interstate traffic are transported in the same vehicles used in peddle operations. No other motor carrier has attempted to furnish the type of service applicant has rendered over the years at the small points on these routes out of a feeling of obligation to provide these communities

with adequate service. To continue the quality and frequency of the peddler services maintained in the past, it will be necessary for Motor Transit to be able to transport the three classes of traffic just mentioned and also truckload traffic, without being subject to the interstate restrictions and conditions considered herein.

These peddler services are very expensive to operate and it is impossible for applicant to break even under the handicaps contained in its existing authorities. The truckload traffic is essential to support the peddler operations.

There are 24 cities and towns between Davenport and Des Moines. Eleven of these, Walcott, Stockton, Durant, Wilton, Atalissa, Coralville, Oxford, Homestead, South Amana, and Altoona, have no motor carrier service other than applicant, and it maintains the only regularly scheduled service at six other of these points, West Liberty, Marengo, Ladora, Victor, Brooklyn, and Colfax. There are ten points between Des Moines and Omaha and applicant is the only motor carrier providing regular service at eight of them, Dexter, Stuart, Menlo, Casey, Adair, Anita, Wiota, and Oakland. The same is true of Shelby and Hancock points on the Frederickson Line route. Lewis, an off-route point southwest of Atlantic, is served only by Motor Transit. Griswold, Carson, and Treynor on Iowa Highway 100 are served only by applicant and a local carrier operating between Omaha and Griswold. Brayton and Hamlin on the Audubon branch are dependent solely on the service of applicant, and the same situation prevails at Wellman and Kalona points in eastern Iowa southwest of Iowa City.

Testimony in Support of Application

Iowa State Commerce Commission. This Commission is interested in seeing that unrestricted motor carrier service is not only available but actually performed at the various smaller points here involved. It supports the instant application solely because applicant is the only carrier that for a number of years prior to September, 1951, had been rendering an adequate and efficient service on less-than-truckload freight at the many small points on the White and Frederickson Lines and certain points on its authorized routes adjacent to the former line, and the only carrier

since that date that has been providing consistent, but not adequate, service to the extent authorized under its temporary authorities. During the past two years the trend of motor carriers operating in Iowa generally has been to get away from rendering local service on small shipments. This Commission grants intrastate authority to only one motor carrier to serve points on a given route.

Chambers of Commerce and Others. The Davenport Chamber of Commerce serves approximately 175 firms in Davenport, East Davenport, and Bettendorf, Iowa. These firms manufacture many articles that move in interstate commerce. In addition several nationally known firms ship pool-carloads to Davenport for distribution from that point. Shipments in such carloads consist principally of foodstuffs, confectionary, ball bearings, cigerettes, gas meters, [fol. 15] and soap and soap products, weighing from 150 to 15,000 pounds per shipment. Rail service to the considered points on U. S. Highway 6 from Davenport takes from six to twelve days. Merchandise cars after arrival at destination, in some instances, have been held three days before being switched to the freight house for unloading. Such rail service is inadequate. Shippers and consignees must rely on the one-to-two-day service of applicant. The curtailment of applicant's service by the restrictions imposed will deprive shippers of a peddler service which is essential in the conduct of their businesses. No other motor carrier has offered or maintained service on less-than-truckload shipments remotely approximating that of applicant.

Omaha Chamber of Commerce. Many of the members of this organization are shippers of various commodities to points in Iowa on applicant's routes. The majority of such shipments are in less-than-truckload quantities, but occasionally there are truckload shipments. Applicant is the only carrier rendering service from Omaha to Buffalo, Columbus Junction, Coralville, Durant, Earlham, Eddyville, Eldon, Hancock, Kalona, Libertyville, Princeton, Washington and Wellman. This organization believes that all of the existing restrictions on applicant's operating authority involved in this proceeding should be removed so that applicant may render a comprehensive overall service in the same manner as it did for many years prior to September, 1951.

Chicago Association of Commerce and Industry. The industrial traffic council of this association consists of 400 of the large industries in the Chicago area and 2,100 shippers in the same area use its shipping guide service. A large volume of traffic moves from the Chicago area to points in Iowa considered herein. There is plenty of truck service between the Chicago area, on the one hand, and, on the other, the large Iowa cities, but the shippers, since the imposition of the restrictions on applicant's authority, have experienced difficulty in obtaining adequate service to an[illegible]n the small Iowa towns, some of which are served only by applicant. This association believes that its members' interests will best be served by applicant holding unrestricted authority to transport both less-than-truckload and truckload traffic, which is the only manner the operation can be conducted economically and efficiently.

Des Moines Chamber of Commerce has as members approximately 600 concerns interested in shipping. Applicant's service to the small towns on U. S. Highway 6 is not duplicated by any other carrier. In fact the trend on the part of many carriers is to avoid peddle-service and to operate principally from terminal to terminal. Some of its members have shipments over 5,000 pounds each. Curtailment of applicant's interstate service would be harmful to its members and in turn no doubt would result in the impairment of this carrier's intrastate service.

Chamber of Commerce of St. Joseph, Mo., represents clothing and candy manufacturers, wholesalers of hardware, producers of saddlery, sporting goods, furniture, and meat packers, who ship to points on U. S. Highway 6 in lots ranging from 100 pounds to 6,000 pounds. This traffic moves in interline service to Motor Transit at Des Moines or some other interchange point on U. S. Highway 6. Its main difficulty is to keep the large motor carriers serving the smaller points on their authorized routes because they are unwilling to render this service owing to the higher costs of handling such traffic without added revenue. This Chamber asks that the application be granted.

[fol. 16] *The Chamber of Commerce of Mason City, Iowa,* is primarily interested in retaining the services of applicant on traffic from the Tri-Cities. The majority of its members

have been relying on this service for some time for the transportation of their less-than-truckload traffic. These members deem that applicant's service is superior to the services of other motor carriers and should be retained without crippling restrictions.

The Chamber of Commerce of Muscatine, Iowa, has 300 members, including producers or manufacturers of buttons, grain alcohol, industrial water pumps, various grain products, foods, sash and doors, and vegetables. Some of them have from 250 to 450 employees. These articles and others, including those dealt in by wholesale grocers and grain and feed dealers are shipped out of Muscatine to interstate destinations, such as Omaha, and to intrastate destinations, served by applicant. Loss of applicant's unrestricted service would be catastrophic.

Ottumwa, Iowa, Chamber of Commerce, representing its members, including a meat packing plant, a farm implement manufacturer, a lawn mower company, machine shops, warehouses, and retail stores, is particularly interested in retaining the service of Motor Transit to and from Omaha, Tri-Cities, and Minneapolis-St. Paul. There are other available carriers serving such points, but their services lack satisfactory regularity and they are slow on picking up traffic. Some shipments weigh 8,000 pounds and the shipper objects to packaging them to meet the present weight limitation.

Iowa City Chamber of Commerce, is endeavoring to attract new business enterprises and the available transportation facilities are very important in this respect. The outstanding attraction to industries is the trucking facilities at Iowa City and the very nub of that is Motor Transit's interstate service.

Burlington (Iowa) Shippers Association, represents 75 shippers at Burlington, Fairfield, Ottumwa, Keosaugua, Fort Madison and Keokuk, and Monmouth, Ill., of various commodities, including steam engines, automobile chains, bakery goods, poultry and barnyard supplies, agricultural machines, furniture, desks, food products, hardware, dry goods, notions, household laundry appliances, gloves, dairy equipment, lumber and building supplies, paper items, cereals, platform trucks, coasters, carbide, bee supplies, and candles. In addition, many other commodities move into

Burlington and are subsequently shipped out by motor carriers operating over routes in Illinois to the Tri-Cities where they are delivered to Motor Transit for movement beyond to destinations served by that carrier. Traffic also moves in the same manner in the reverse direction. The need for Motor Transit's service is more pronounced now than it was years ago, because it renders regular efficient service to the small towns on small shipments and accepts so-called "balloon" freight (light and/or bulky articles) which other carriers are very reluctant to transport, or refuse to handle, or by tariff provisions, so-called "flag-outs", eliminate their participation in the rates on such traffic. In the middle 1920's the truck industry took away from the rails the less-than-carload traffic and now they do not want that traffic, because it costs too much to handle. Some carriers have even placed embargo-s on this traffic to avoid handling it. It would be impossible for Motor Transit to provide the type of service it rendered prior to September, 1951, if the 5,000-pound limitation and the key-point restrictions are retained. These should be eliminated. It is pointed out that Burlington, a subsidiary of the Chicago, Burlington and Quincy Railroad Company, which operates in adjacent territory, is not so limited and restricted. [fol. 17] *Traffic Bureau of East Moline, Moline, and Rock Island, Ill.* This Bureau has 68 members representing practically all industries in the Tri-Cities east of the Mississippi River. From this area there are daily shipments to many of the considered destinations in Iowa where applicant provided peddler service unhampered by restrictions. Discontinuance or curtailment of this service will adversely affect shippers in this area as they would have to rely on weekly or tri-weekly rail service. This type of motor service is not provided by any other motor carrier operating along the White Line and Frederickson Line routes. Owing to the 5,000 pound weight limitation some of the consignors have split one shipment into two or more shipments to stay within the limitation and in order to get service.

Minneapolis, (Minn.) Traffic Association. This association represents, insofar as here pertinent, 675 members, 32 of whom shipped to points on U. S. Highway 6 during January, 1952. The market of Minneapolis has built up its sales

on the small units to points in Iowa served by applicant because of its peddler service available thereto for many years. It desires that all restrictions on the authority of applicant here considered be removed.

Traffic Bureau of Cedar Rapids, Iowa, Chamber of Commerce. Many industries are located at Cedar Rapids, and there is a regular flow of interstate traffic to and from that point. A number of motor carriers serve Cedar Rapids and service of all of them is satisfactory to the larger towns, but all of them, except applicant, neglect service at the smaller places. Applicant's service to such smaller places is predominately superior when not hampered by restrictions. This bureau asks that applicant be authorized to operate as it did prior to August 30, 1951.

Chamber of Commerce of Atlantic, Iowa. This town has the usual run of retail stores and several manufacturing establishments and they need the service of applicant (1) to assure the continuance of good service to retail outlets, and (2) to provide the kind of service that is essential in persuading new industries to locate at Atlantic. This point is served by about six other motor carriers, but Motor Transit's service is the basic service.

Motor Carriers: The Burlington-Chicago Cartage, Inc., and *the Burlington-Chicago Cartage* operator of the Chicago-Nebraska Motor Express, Kewanee, Ill., conduct general commodity operations in Illinois, Iowa, (a few eastern points) and Nebraska. They are primarily interested in tonnage from points in northwestern Illinois to destinations on U. S. Highway 6 in Iowa interlined for a number of years with applicant through applicant's terminal at Ottumwa, Iowa. Some of this traffic was formerly interchanged at the same point with Watson Bros. Transportation Co., Inc., hereinafter called Watson Bros., but that carrier closed its terminal at Ottumwa and at times has refused to accept interline shipments at Burlington, Iowa, the logical gateway on traffic moving to points on U. S. Highway 6 by Watson Bros. or to Attumwa for delivery to applicant. Applicant's service has been entirely satisfactory and no other connecting line carrier provides the same quality and quantity of service which is essential to the prompt handling of shipments from northwestern

Illinois to points in Iowa on U. S. Highway 6, particularly the regular monthly flow of dated advertising circulars of sales to be held on a designated day, ranging in weight from 1,000 to 10,000 pounds per shipment. The existing 5,000-pound restriction has caused inconvenience to the shippers because they have had to split their shipments to observe this limitation.

[fol. 18] *Atkins Transfer Company, Inc.* This carrier's main office is at Nashville, Tenn. It holds a certificate to transport general commodities, with exceptions, between Chicago and Nashville and operates 108 pieces of equipment. There is a regular movement of less-than-truckload and truckload traffic northbound to Chicago for interline there and movement to Iowa points. Atkins prior to 1950 had considerable difficulty in finding carriers at Chicago willing to accept this traffic. Early in 1950 it began using applicant's service, which solved its problem in this respect. Restoration of the service rendered by applicant prior to September, 1951, is required to enable Atkins to again transport truckloads of the low rated freight it had to relinquish when applicant was required to discontinue the movement of truckloads west from Chicago.

Clipper Transit Co., of Manitowoc, Wis., is a common carrier serving eastern Wisconsin. It has interlined shipments weighing from 100 to 400 pounds with Motor Transit at Chicago for such points as Oxford, Nichols, Wilton Junction, Walcott, and Wellman. Discontinuance of Motor Transit's service would make it difficult, if not impossible, for Clipper to arrange for movement of this traffic west of Chicago.

H & W Motor Express Company, of Dubuque, Iowa, is a common carrier of general commodities in certain areas of Iowa, Illinois, and Minnesota. It operates 260 units of equipment and interchanges a large quantity of freight with applicant. It holds interstate authority to serve every point on U. S. Highway 6 between Davenport and Des Moines, both inclusive, but elects to interline such freight with applicant, instead of making deliveries itself because there is insufficient volume to operate at a profit. There are certain points on U. S. Highway 6, such as Newton, that carriers other than applicant serve, when it suits their con-

venience, which is primarily determined by the type of freight and size of the shipment offered. It is virtually impossible to obtain interline service on less-than-truckload shipments by carriers opposing this application to such points as West Liberty, Durant, and Grinnell and such carriers are even reluctant to handle truckloads owing to the short hauls from point of interchange, the Tri-Cities.

The Chicago-Dubuque Motor Transportation Company, of Dubuque, Iowa, operating in certain areas in Illinois, Iowa, and Wisconsin, supports the application, but the evidence adduced on its behalf has no particular significance.

Dohrn Transfer Company, of Rock Island, Ill., a common carrier of general commodities between designated points on the Mississippi River and points in Illinois has interlined with applicant during the past ten years and it delivered over two million pounds of freight, weighing less than 5,000 pounds per shipment, in 1951 to applicant at the Tri-Cities destined to various points on U. S. Highway 6 and certain points on applicant's routes in Iowa north and south of that highway. Applicant has and is delivering like shipments to this carrier for movement beyond. Less-than-truckload shipments have been refused so consistently over a period of years by other carriers serving the considered Iowa area that Dohrn always thinks of and relies on applicant for service. This carrier also needs such service for shipments in excess of 5,000 pounds. Dohrn knows of no carrier other than applicant who will render consistent local peddler service on U. S. Highway 6.

[fol. 19] *Central Transfer Co.*, of Brimfield, Ill., operating generally between Bloomington, Ill., and the Tri-Cities has a regular flow of general-commodity interline traffic with applicant. During the typical month of December, 1950, this interline business aggregated 354,610 pounds of shipments exceeding 5,000 pounds each, 34,746 pounds on 12 shipments weighing between 2,000 and 5,000 pounds, and 55,003 pounds on 146 shipments weighing under 2,000 pounds. The increase from 2,000 to 5,000 pounds in the weight limitation of the temporary authority of applicant has enabled Central to interline shipments it had serious difficulty in getting connecting carriers to accept when applicant's authority was restricted to shipments not exceed-

ing 2,000 pounds. No other carrier has offered to provide the type of service maintained by applicant prior to September, 1951.

Knox Motor Service Co., Inc., of Rockford, Ill. operates over 200 vehicles and has approximately 160 employees. It originates shipments, such as implement repair parts, hardware, and tools, for points on U. S. Highway 6. The repair parts are usually emergency shipments. There is a continuous flow of such traffic weighing from 200 to 2,000 pounds per shipment to Motor Transit at the Tri-Cities. Motor Transit is the only carrier that consistently takes these small shipments. There are some shipments that weigh 10,000 pounds and over. The carriers that refuse the small shipments are always eager to haul shipments of 10,000 pounds or more. It desires applicant's service be continued without restrictions.

Generally these carriers do not ordinarily experience any difficulty in interlining shipments destined to the larger points on U. S. Highway 6, such as Des Moines and Newton, but they are of the opinion that applicant must be in a position to serve these points and to handle overhead traffic in order to provide the required service, particularly the expensive peddle operations, at the smaller points to avoid sustaining a loss on the entire operation. Several of these carriers are members of the American Trucking Associations, Inc., which is opposing the application.

Points Served by Motor Transit But Not on Routes Directly Involved. Kansas City, Mo. Montgomery Ward & Company supplies its retail stores at Atlantic, Des Moines, Newton, Iowa City, Muscatine, and Washington, Iowa, with the numerous articles of merchandise handled by such stores and also ships merchandise ordered from its catalogue to customers located at any point on the line of Motor Transit from its regional office at Kansas City. These shipments usually range from 150 to 6,000 pounds each. Iowa City and Newton are the only points that receive shipments exceeding 5,000 pounds and recently these shipments have moved by Watson Bros. or Bruce Motor Freight, Inc., hereinafter called Bruce, in interline service because of Motor Transit's inability to transport them, but the services of these carriers have not been satisfactory due to the fact

that they do not make delivery in as short a time as did Motor Transit. This results in dissatisfied customers, who go elsewhere to make their purchases. Points on U. S. Highway 6 in Iowa are considered as two-day service points from Kansas City. Without the service of Motor Transit this shipper would be greatly handicapped to all such points east and west of Des Moines. Existing services, other than Motor Transit between Kansas City and Des Moines are adequate.

Sinclair Refining Company ships filling station supplies and equipment ranging up to several thousand pounds per shipment from Kansas City to its dealers at Adair, Atlantic, Griswold, Davenport, Harlan and Ladora and to some extent to bulk plants at Cedar Rapids, Clinton, Council Bluffs, Des Moines, Iowa Falls, Mitchellville, Monroe, Newton, Oakland, Oskaloosa, Ottumwa, Wellman, and West Liberty, [fol. 20] Iowa. The bulk plants also to some extent are supplied from East Chicago, Ind., and Omaha. Truckloads only move to bulk plants. Motor Transit service from Kansas City has been used for several years and found entirely satisfactory. Other motor carrier services from that point have resulted in delayed deliveries requiring the payment of installation or painting crews pending arrival of pumps and equipment. On truckload shipments from East Chicago, prior to the imposition of the 2,000 and 5,000 pound restrictions, Motor Transit service had been used wherever possible, because of its promptness in making pickups, which prevented congestion on the shipper's limited dock facilities. It desires a resumption of this service so that the inconvenience and difficulties experienced recently may be eliminated. Shipments from Omaha are not extensive, but they range up to 10,000 pounds each. The most direct service available has been and is used from this point, which was that of Motor Transit to many of the considered destinations and is that of this carrier on shipments not exceeding 5,000 pounds. Restoration of unrestricted service is deemed essential from Omaha.

Crooks Terminal Warehouse operates a storage and distribution business and acts as an agent of shippers. It has about 300 accounts. Small shipments not exceeding 2,000 pounds move from Kansas City to some of the considered

destinations. Motor Transit's service has been the most expeditious and should be continued.

Beatrice, Nebr. A manufacturer of implements and farm supplies, who is also a jobber of plumbing and heating equipment and supplies, employing approximately 650 persons, operates a manufacturing plant at Beatrice and distributing warehouses at Omaha, Des Moines, and Kansas City. It has dealers at most towns in Iowa and some of its shipments to points on U. S. Highway 6 weight in excess of 5,000 pounds. Applicant provides the only regular service available and the loss of this service would be injurious to its business.

Clinton, Iowa. A lumber company having 35 yards scattered throughout Iowa uses applicant's service on both intrastate and interstate traffic to eight of them, only one of which, Adel, is on U. S. Highway 6. It uses the services of other motor carriers including Burlington Truck Lines, Inc., hereinafter called Burlington, and Iowa-Nebraska Transportation, Inc., hereinafter called Iowa-Nebraska. There are some truckload movements into the yards, but the outbound movements are principally in less-than-truckloads. Some of its yards are served only by applicant. Any curtailment or termination of applicant's service would drastically affect its business.

A manufacturer and distributor of foods, employing 1,300 persons has been and is using applicant's service on both intrastate and interstate less-than-truckload shipments to destinations involved herein and to points west of Omaha and south of Kansas City and St. Louis. It occasionally has shipments in excess of 5,000 pounds. A discontinuance of all or a part of applicant's service would be "destructive to us and many of our customers".

A manufacturer of building frames, sashes and doors, employing 575 persons, uses applicant's service principally on shipments under 5,000 pounds to points south and west of Clinton. No other motor carrier provides the quality of service furnished by Motor Transit. The loss of this service would result in delays in transit and create a situation not advantageous to the proper handling of the business.

[fol. 21] *Minneapolis, Minn.* Applicant's service is used

almost exclusively by a wholesale hardware company to 14 points on the White Line and Frederickson Line routes. Shipments are made regularly to retail dealers and they usually do not exceed 1,100 pounds each. The loss of this service would place this company at a competitive disadvantage. The witness, like several other witnesses familiar with traffic movements, expressed the opinion that in order to provide efficient local service on small shipments a carrier must be able to transport volume, and overhead, traffic.

Muscatine, Iowa. One of two affiliated firms buys and sells grain and manufacturers livestock feeds, and the other grinds and crushes soy beans, and makes soy bean oil and soy bean meal. They receive equipment and machinery and parts therefor from certain eastern, western, and northern points and from St. Louis, Mo. If applicant's service is curtailed or abandoned it would mean a tremendous loss of business to this city.

Kalona, Iowa. A dealer in machinery, farm implements, washing machines, gas stoves, and refrigerators, receives shipments weighing not more than 1,000 pounds each from Illinois points by Motor Transit service, which is the only regular-route carrier operating to and from that point. In the surrounding area many turkeys are raised. A new plant at this point for dressing and shipping these turkeys has been completed within the past year. This dealer knows of no other motor carrier service to replace that of Motor Transit.

A dealer in Chevrolet automobiles and parts and in farm implements and parts receives some of the automobile parts, in shipments ranging from 100 to 2,000 pounds, from Chicago, Ill., and Janesville, Wis., almost every day. The farm implements and parts originate at Moline, Ill. Rail service is very slow and it handles only the extremely bulky articles or heavy items. Applicant is the only truck line serving Kalona. He is disturbed about applicant's situation and believes that if applicant is not allowed to continue its past excellent service he will have to purchase and operate motor equipment.

A dealer in farm implements and accessories receives frequent less-than-truckload shipments from Rockford and Streator, Ill., and Racine, Wis., by Motor Transit, the only

service presently available. The continuation of this service is urgently required.

Another farm implement and automobile dealer, including parts and supplies, uses Motor Transit on shipments of less than 5,000 pounds from Moline and Peoria, Ill., and Kansas City. No other carrier gives daily service.

Kalona and Wellman, Iowa. Turkey farms at each of these points are owned by the same firm that operates a hatchery, a feed mixing plant, and a plant in which six to eight million pounds of turkey a year are processed. This industry employs from 95 to 300 persons. Inbound shipments consist of small quantities of ingredients used in the feed mixtures and substantial quantities of repair parts, averaging about three shipments a week. Outbound shipments are from four to seven barrels of dressed turkey at a time. If Motor Transit should not be available to handle these shipments, this firm believes that it would be handicapped.

Wellman. An undertaker who is also a dealer in furniture receives all of his freight by Motor Transit both rail and motor billed. Most of his shipments originate at [fol. 22] Springfield, Ohio, Louisville, Ky., and Fond du Lac, Wis. The rail-billed shipments generally originate in the eastern or southern part of the United States. No other motor carrier provides a daily regular service.

Columbus Jct., Iowa. A stationery manufacturer receives a great amount of stock, generally not exceeding 5,000 pounds per shipment, from eastern points, which is transported from Chicago, by Motor Transit, the only carrier maintaining daily and adequate service. No other carrier has solicited his traffic.

Washington Iowa. A manufacturer of fresh-water pearl buttons sells its product nationally an employes 250 persons. Its shipments outbound weight about 500 pounds each and they have moved by Motor Transit for the past seven years. This service has been entirely satisfactory. Prior thereto the services of two other motor carriers had been utilized, but their services were so unreliable a change was made to Motor Transit. This witness also represented the Chamber of Commerce, whose members include a large calender factory, a turkey processing plant, a grain processing plant, and an eyebolt company.

Pella and Prairie City, Iowa. A manufacturer at Prairie City of farm equipment, wagon boxes, hammermill tires, and hydraulic units receives steel in lots of less than 5,000 pounds from Chicago by Motor Transit. Daily shipments are made to one or more points in seven midwestern states. These shipments range from 100 to 6,000 pounds. The present 5,000-pound restriction interfer-s with the flow of traffic. The service of Motor Transit on both inbound and outbound traffic has been satisfactory and it is the only carrier that solicits this traffic. The same witness also has a foundry at Pella, which produces castings and moldings. These articles principally move to Iowa points. Some interstate shipments of over 5,000 pounds were split up to meet the limitation hereinbefore referred to. The situation with respect to service there is the same as at Prairie City.

Pella. A manufacturer of windows, rolling window screens, venetian blinds, and folding doors ships to destinations throughout the United States. As the originating carrier applicant has been giving a service not duplicated by any other carrier. Some shipments weight over 5,000 pounds each and it is very inconvenient to split them into smaller packages to meet the existing weight limitation. Burlington, Bruce, and Watson operate through Pella and when their equipment is loaded to capacity they refuse to pickup at Pella. Their service is not regular or dependable.

Oskaloosa, Iowa. A producer of fire hydrants and gate valves used in the water systems of towns and cities throughout the United States has been using applicant on most of its outbound shipments, which usually do not exceed 5,000 pounds, per unit, and on inbound shipments of iron and steel. The services of other motor carriers, such as Burlington, are not as regular or as complete as that of applicant, which elements are essential to this shipper.

A company making trailer hitches, wire brackets, milking machines, water systems, and other things, uses applicant's service to a considerable extent and it is favored to many interstate points. Applicant affords the best available service to and from Des Moines, points west of Des Moines, Davenport, Minneapolis, and Kansas City. Usually shipments made or received by this company weight less than 5,000 pounds each. Other motor carriers provide satis-

factory service to and from other points. The curtailment of applicant's service would not be to the best interest of this company.

[fol. 23] *Fairfield, Iowa.* A manufacturer of barn equipment, employing 250 persons, ships to the entire midwest. It formerly used Motor Transit's service as the initial carrier, but the imposition of the 5,000-pound limitation forced it to use other carriers. If Motor Transit's service should become available in the future this shipper will use it the same as in the past.

Affiliate firms, one manufacturing iron castings, and the other producing guy anchors, ship to points in the midwest. The 5,000-pound limitation interfer-s with these firms normal operations. In a three-month period they made about 45 such shipments by rail. The rail service is not as satisfactory as the prior service of applicant.

Brayton, Iowa. Fencing, barbed wire, steel, mill work, and general hardware move principally from Omaha, Chicago, Rock Island, and points in Michigan to a retail lumber yard at Brayton by the service of applicant, which is the only regular service available at that point. This service has been exceptionally good and any diminition thereof would have an adverse affect on its business.

Exira, Iowa. An individual operating a retail hardware store and a separate wholesale electric appliance business receives many shipments from east coast points and Denver, Colo., weighing from 200 to 10,000 pounds. About 50 percent of them are delivered by Motor Transit and the remainder by Rock Island and Roberts Transfer. Eighty percent of his hardware supplies originate at Des Moines, and some at St. Joseph, Mo., and Omaha. The service of Motor Transit has been entirely satisfactory. Damage in transit on certain types of electrical fixtures is inevitable. Such damage has been held to a minimum on shipments transported by Motor Transit, and that carrier has always paid claims promptly. Just the opposite is true with respect to Roberts Transfer, more damage and very slow in settling claims. Any curtailment of Motor Transit's service would be detrimental to the businesses of this witness because a slower service would require a greater capital investment and impair one of the important factors in the wholesale business, a quick turnover.

A farm implement dealer, who also operates a plumbing and heating business, and a water system repair service receives interstate shipments, weighing from 400 to 5,000 pounds and usually directs that they move by Motor Transit when that service is available at point of origin and if it is not he specifies "best way". Roberts Transfer and Iowa-Nebraska also serve Exira. The latter does not provide a regular service on small shipments. It mainly handles truckloads of butter, eggs, and other dairy products from the creamery at Exira to eastern destinations. This witness has faith in the service provided by Motor Transit and states that from Omaha it is often better than the parcel post service; and that this service is particularly advantageous on emergency shipments.

Hamlin, Iowa. An operator of a grocery store, who handles some general merchandise lines, purchases work clothing in Illinois. These articles are transported by applicant. This service has been perfect and should be continued. Iowa-Nebraska service at Hamlin is intermittent and that of Roberts Transfer is satisfactory only on traffic from Omaha.

An operator of a locker plant obtains his supplies from Des Moines. This is intrastate traffic.

[fol. 24] *Audubon, Iowa.* An owner of a 5 cent to $1.00 store and of a separate dry goods store uses applicant's service in connection with small shipments from Omaha, Chicago, and Minneapolis. The services of other carriers at Audubon do not compare with that of applicant. On traffic from Minneapolis applicant gives next day delivery at Audubon and comparable service from Chicago. When similar shipments have been interlined with Roberts Transfer at Des Moines there have been delays on account of the transfers. At times Roberts Transfer does not have available space on its equipment and an additional delay of one day resulted therefrom.

Lewis, Iowa. Rock Island service has been abandoned at this point. The business interests are dependent upon the interstate service of Motor Transit. Other motor carriers having authority to serve Lewis do not ordinarily slow down at this small community.

Griswold, Iowa. A manufacturer of oil heating equipment and power mowers, receives sheet steel in 20,000 to

100,000 pound lots, controls for such equipment, and engines for power mowers in shipments exceeding 5,000 pounds from Chicago, Milwaukee and New Holsten, Wis., or Maquoketa, Iowa. The finished products move to various points. He requires fast daily service both inbound and outbound. Motor Transit has been rendering this type of service. Its average service from Chicago is 3.6 days as compared with an average service by competing carriers of 8.2 days. Tracer service by Motor Transit requires about 48 hours and of other carriers from two to three weeks. Loss of any part of the service rendered by Motor Transit prior to September, 1951, would be disasterious. Thornton Transfer and McVey Transfer operate between Omaha and Griswold and a few points in that area. Shipments from eastern points moving by either of these two carriers are transferred to them at Omaha resulting in at least 24 hours delay and an additional 100 miles or more of hauling.

Carson, Iowa. An operator of a lumber yard buys hardware at Minneapolis, some "merchandise" at Chicago, and considerable from Omaha and Waterloo and Cedar Rapids, Iowa, practically all of which moves by Motor Transit. Its service has been very satisfactory and continuance thereof is essential.

Treynor, Iowa. A cooperative hybrid seed corporation infrequently uses applicant for the transport of repair parts for corn graders from Cedar Rapids. This is an intrastate movement.

Chicago. A wholesaler of general merchandise services about 150 stores in Iowa, twelve of which are on or adjacent to U. S. Highway 6. Its shipments consist of articles usually found in variety stores or small dry-goods stores and they average about 300 pounds each, except when new stores are opened they exceed 5,000 pounds. During the first three months of 1952 the applicant, and Iowa-Nebraska did not fail to pickup shipments promptly. Des Moines Transportation Company, Inc., hereinafter called Des Moines Transportation, missed (did not pickup on day shipment should have moved) one out of every six shipments in January, 1952. It did not miss any in February and March, 1952. Four other carriers during this three-month period generally missed from one out of three to

seven out of fifteen shipments. It believes that anything reducing its field of choice as to carriers would adversely affect its business.

[fol. 25] A drug company supplies drug stores at eight points on U. S. Highway 6. Shipments average about 360 pounds each. The aggregate weight of shipments during an eight-month period to these stores was about 70,000 pounds. It uses only the service of applicant and asks that such service be continued.

A wholesale grocery corporation supplies 23 points on or adjacent to the White Line route and on the Fred-rickson Line route. It requires weekly or twice a month service. The average shipment weighs approximately 500 pounds. In the Fall it has frequent shipments in excess of 5,000 pounds. It has used the services of about four motor carriers to these points. Of these applicant's service has proved most reliable to the smaller points. Any curtailment of applicant's service as rendered prior to September, 1951, would be disasterous.

A wholesaler of school supplies, office supplies, housewares, books, and various sundries ships to small independent dealers. It has 500 accounts in Iowa, ten percent of which are on U. S. Highway 6, in practically every incorporated town and village between Davenport and Omaha. Shipments range from 350 to 500 pounds. It has used the services of Motor Transit since 1938 and it would be a matter of serious concern to lose the services of a carrier upon which it has depended for many years. No other carrier has solicited this traffic.

Points Served by Motor Transit Directly Involved in This Proceeding. Appendices A and B show the number of witnesses at each point supporting the application. *Points on White Line Route* in station order west from the Tri-Cities.

Rock Island, Ill. A fabricator of steel for buildings ships to the territory served by Motor Transit. It ships usually in quantities of 28,000 pounds, but there is some less-than-truckload traffic. In 1951, before the weight limitation of 2,000 pounds was imposed, Motor Transit handled 100 tons to Iowa City. Motor Transit was the only carrier readily available with proper equipment to handle this movement.

Moline, Ill. A manufacturer of farm implements and parts ships to dealers located primarily at small points. It has dealers located at 12 points in western Iowa on the White Line route and the Fred-rickson Line route. The shipments are of all sizes. Applicant is the only carrier serving the 12 points that has complete terminal facilities in the Tri-Cities. In eastern Iowa it has dealers at all points on U. S. Highway 6 from Davenport to Dexter. Shipments from these points range from 100 pounds to 20,000 pounds. It wants straight motor carrier service. It believes that service by applicant to the smaller points cannot be performed properly without removal of the restrictions, as many of the shipments are for handling in peddle operations which are not accepted by many of the carriers serving the larger points. It also believes that applicant should be allowed to handle overhead traffic to enable it to continue the peddle service.

A wholesaler of plumbing and heating supplies with about 15 accounts on or near U. S. Highway 6 between Davenport and Iowa City makes shipments ranging from 3,000 to 4,000 pounds by applicant. It has competition at Cedar Rapids, Des Moines, Ottumwa, and Burlington, and in order to meet this competition transportation of the character rendered by applicant is vitally essential. It is unaware of any other carrier giving comparable service.

[fol. 26] *Wolcott, Iowa.* A banker receives bank supplies about once a month from Chicago by Motor Transit, which is the only carrier providing service at this point.

A dealer in plumbing and heating appliances and pumps receives daily interstate shipments weighing less than 5,000 pounds each. Applicant has and is providing excellent service. It is the only carrier serving Wolcott.

An operator of an electrical and appliance shop purchases supplies at Chicago and Freeport, Ill. They are shipped in lots of less than 5,000 pounds about twice a month. Applicant's service has been and is very good. Without this service, he would not know how to get the shipments transported.

An automobile dealer obtains repair parts from Chicago several times a week in shipments of less than 5,000 pounds each. He needs applicant's service because there is no other available carrier.

A retail lumber dealer with yards at Wolcott (main office) and Durant stocks, in addition to lumber, farm supplies, hardware, roofing materials, paints, fencing, and millwork. He has used Motor Transit service for many years on a continuous flow of less-than-truckload interstate shipments. He assumes that if this application is not granted that his business will be affected to the extent that it will take longer to get the merchandise.

A salesman of animal feed or animal mineral products with storage facilities therefor at Wolcott appeared as a witness in support of the application, but it developed that he had no interest in any intrastate or interstate shipments.

A dealer in farm implements and general farm supplies receives shipments two or three times a week of 500 to 1,500 pounds, from points in Illinois and Wisconsin. He needs applicant's service as there is no other service available.

Stockton, Iowa. A producer of grey iron castings purchases certain of his raw materials in 500 to 8,000-pound lots at various interstate points. Ninety percent of the inbound traffic moves by truck for delivery by Motor Transit, which is the only carrier serving Stockton. Outbound shipments ranging from 100 pounds to ten tons move practically every day by the same carrier to points throughout the United States. The existing 5,000-pound limitation per shipment is inconvenient as it requires the splitting of a ten-ton shipment to one consignee into several shipments of 5,000 pounds or less each.

A cooperative elevator company doing a general elevator and feed business, and also dealing in farm equipment, hardware, fencing, seed, posts, wire, and "practically everything except groceries and clothing", receives shipments of farm implements, hog feeders, and hog and cattle oilers from points east of the Mississippi River. It also receives water-tank heaters from St. Louis, Maryville, and Kansas City, Mo. Its inbound shipments move by truck and they range in weight from 80 to 5,000 pounds each. About four deliveries a week are made at Stockton. A large part of its inbound shipments are from points in Iowa. It has no outbound interstate shipments. In 15 years Motor Transit is the only carrier that has "been to our place of business".

It is very dependent upon this service and will be more so in the future because its supplier of farm equipment is moving its repair and attachment branch from Davenport to Chicago, which means that the overnight service of Motor Transit will be essential.

[fol. 27] *Durant, Iowa.* A dealer in hardware, wire, and appliances, including stoves, refrigerators, bottle gas, bottled gas equipment, gas heaters, and water heaters, receives shipments by motor vehicle from interstate points, such as Beaverton, Mich., Odin, Pa., and Chicago. These shipments, weighing from 500 to 7,000 pounds, have been delivered by Motor Transit, the only motor carrier serving this point. Its continued service is required.

Wilton, Iowa. A dealer in automobile parts and appliances receives automobile supplies from the central warehouse at Kansas City, and storage batteries from Chicago. These articles in small shipments move to Wilton by Motor Transit, the only carrier proving service at this point.

An operator of a retail plumbing and heating business receives small shipments from Moline, Ill. Applicant furnishes the only daily service available, loss of which would hurt his business.

Atalissa, Iowa. An owner of two lumber yards, one at Atalissa and the other at Wilton, dealing also in building supplies, hardware, and farm supplies, receives three or four shipments a week from Chicago and the Tri-Cities. These shipments move by Motor Transit, the only motor carrier serving these points. He knows of no facility that could take the place of the service of Motor Transit.

West Liberty, Iowa. A dealer in lumber, hardware, and implements receives millwork from Rock Island, Ill., hardware from Chicago and Ottumwa, and implements from Omaha and Moline. The weight of these shipments vary from a few pounds up to 4,500 pounds. Motor Transit has been providing the service required by this dealer and any curtailment thereof would be detrimental because his trade has been built on service and when he places an order he wants the merchandise in a hurry. There is no other motor carrier providing the type of service desired.

A bulk oil and tire distributor uses applicant's service almost exclusively for the transportation of intrastate

traffic. If there were any interstate shipments in the past, they were negligible.

Iowa City, Iowa. Most of the shipments of a dealer in lumber, building supplies, and farm supplies at both Iowa City and Oxford, Iowa, originate at Chicago. They do not usually exceed 2,000 pounds each. Occasionally a shipment weighs over 5,000 pounds and recently it had a truckload of asphalt shingles for Chicago, but Motor Transit could not handle this movement on account of the 5,000-pound weight limitation. It has specified that shipments move by Motor Transit for a number of years because experience has demonstrated that this carrier's service is far better than the services of other motor carriers. It could exist without the service of Motor Transit, but it would be easier with that service available. It is the only carrier providing less-than-truckload service at Oxford.

A plumbing and heating wholesaler handles large quantities of pipe, fittings, boilers, valves, and any other article used in such business. Its shipments, both truckload and less-than-truckload, some weighing over 5,000 pounds, originate at points in Illinois, Ohio, Pennsylvania, New York, New Jersey, and Alabama. Motor Transit generally has been and is designated as the delivering carrier on traffic it is authorized to transport. Some shipments to small town dealers at points along U. S. Highway 6 in this wholesalers trade area and at Wellman and Kalona are routed by Motor Transit direct to those points. This designation [fol. 28] is made because the service is superior to that of other carriers and in addition Motor Transit's pickup and delivery service is excellent. Curtailment or discontinuance of this service would have a serious effect on this firm's business.

A business form printing company with plants throughout the country employs 60 persons at its Iowa City plant. At this plant forms for counter register machines, tabulating machines, and typewriting machines are produced. These articles are shipped to substantially every State, except those on the Pacific Coast. Some of the traffic, in quantities ranging from 60 to 2,000 pounds, for points west of Omaha moves by Motor Transit. Several other motor carriers are used by this shipper. The services of

all of them, except Watson Bros. have been satisfactory. One of the reasons this firm selected Iowa City for one of its plants, recently enlarged by a $100,000 addition, was due to the excellent transportation facilities. The service of Motor Transit has been superior and denial of this application would be very detrimental to this firm's operations, not only with respect to interstate traffic but also in connection with intrastate traffic as it virtually has customers in every hamlet and crossroads in Iowa.

An owner of a hardware, appliance, and farm implement store receives shipments, some exceeding 5,000 pounds, from Blair, Nebr., Minneapolis, Moline, Chicago, Warren, Ohio, South Milwaukee, Wis., and other places. He has been using the service of Motor Transit because there is no other carrier giving the same type and character of service. If this service is discontinued he would have to change his source of supply on some items from Des Moines to Cedar Rapids (intrastate traffic) and probably increase his inventory.

A wholesaler of automobile parts and equipment, who also operates a machine shop, has been using Motor Transit service ever since its predecessor, the White Line, was first established. It receives shipments of not over 4,000 pounds each from numerous interstate points. Some shipments are consigned directly to its customers in its trade area, which is within a radius of 60 miles of Iowa City. It compares Motor Transit's service of three days from Minneapolis with that of Des Moines Transportation of 49 days on one shipment. A shipment ordered December 12, 1951, and the purchaser had the bill of lading on December 24, 1951, from Cleveland, Ohio, to Marengo was routed by Watson Bros. from Chicago. Watson Bros. would not accept it and it stayed on the dock at Chicago two weeks and five days. It ultimately was moved to Marshalltown, Iowa, where it layed another five days. A rush shipment of five packages on November, 1951, routed by McCoy Truck Lines, Inc., hereinafter called McCoy, had been in transit two weeks when the purchaser called McCoy to make delivery and it had only one of the packages on hand. The purchaser waited five days more and then reordered directing routing by Motor Transit. After

the reordered shipment had arrived, McCoy delivered the original shipment. Curtailment of the service of Motor Transit would force this firm to purchase motor equipment to provide the type of service required.

Cedar Rapids, Iowa. A wholesale dealer in hardware, both "heavy and shelf" ships steel products in truckloads, from a South Chicago, Ill., mill direct to its customers in Iowa on U. S. Highway 6. Since the 5,000-pound limitation was imposed on applicant, it has not been able to get service and this has resulted in loss of part of this business, because some of the customers who require a truckload are forced to buy less frequently in carloads. He could reclaim some of this business if Motor Transit is allowed to operate as it did prior to August 30, 1951. He uses the intrastate services of this carrier extensively in the distribution of hardware from his stores at Cedar Rapids and Ottumwa.

[fol. 29] *Coralville, Iowa.* A dealer in wholesale foods receives merchandise from many points throughout the United States. Several shipments of 150 to 350 pounds are delivered every day, by Motor Transit. This carrier has been providing 24 hour service from Chicago and is the only one that makes direct deliveries at this point. Other carriers drop freight for Coralville at Iowa City and a cartage service makes the actual delivery. This type of service on shipments from Chicago takes three to four days, which is entirely too slow. If Motor Transit service should become unavailable, it would result in this dealer having to pickup his merchandise in Iowa City, a round trip distance of six miles.

Tiffin, Iowa. An operator of a hardware store is also president of the school board. Merchandise for the store is shipped from points in Minnesota and Wisconsin, and most of the supplies for the school originate at Galesburg, Ill. These shipments seldom exceed 5,000 pounds. They are delivered by Motor Transit, the only motor carrier serving this town.

Oxford, Iowa. A hardware and implement dealer receives shipments from Streator, Ill., Mansfield, Ohio, Minneapolis, and Des Moines. Most of them are small shipments. Occasionally one weighs more than 5,000 pounds.

On such shipments difficulties have been encountered since Motor Transit's authority was limited to shipments of 5,000 pounds and less, because this is the only motor carrier serving Oxford. A fast dependable service like that of Motor Transit is required to enable the merchant to meet nearby competition.

An individual sells to farmers some 360 articles distributed by a medicine company. These articles consist of such things as mineral compounds, vitamin supplements, anti-biotics, insecticides, a medicine line "everything from liniments to corn salve", spices, cleaning compounds, and wax. He receives from seven to ten truckloads a year and infrequent small shipments from Winona, Minn. Prior to September, 1951, the truckloads were handled by Motor Transit from Cedar Rapids to Oxford. Since then he never knows what carrier will make delivery but he knows it usually takes several days longer in transit than when Motor Transit's service was available. Apparently the 5,000-pound restriction has forced carriers possessing no authority to serve Oxford to make deliveries at that point in order to keep from holding the shipments for an indefinite period. There was at least one shipment of this character, needed badly by the consignee, that was delayed at Cedar Rapids because the originating carrier could not locate a connecting carrier that would accept it.

Homestead and South Amana, Iowa. A society owns and operates farms and 30 businesses in an area comprising 25,000 acres of land and seven villages. Inbound interstate shipments consist principally of farm implements and parts, and hardware. There are two motor carrier services available at these points, the applicant and A. W. Schmidt, a local operator between Cedar Rapids and the seven villages. To cut off either of these services would hinder the societies enterprises.

Marengo, Iowa. A dry goods company obtains its merchandise principally from Chicago and St. Louis in shipments of 100 to 300 pounds. It averages two shipments a week. Motor Transit furnishes the best service of the carriers authorized to serve Marengo and it desires to have that service available in the future.

An automobile agency receives a couple of shipments of

parts a month from Dearborn, Mich. Some of them are emergency repair parts. Applicant's service is essential, particularly in regard to emergency shipments.

An operator of an automobile supply store and also handling hardware receives the supplies from Davenport and the hardware from Minneapolis. Some shipments [fol. 30] originate at St. Louis. He uses the services of Motor Transit and desires to utilize this service in the future to avoid delays in deliveries.

Ladora, Iowa. A lumber and fuel company receives paints from Kansas City, shingles from Peoria, and Joliet, Ill., insulation board and insulation products from Minneapolis, slat-cribbing from Omaha, paint and fencing from Chicago, millwork from Rock Island, builder's hardware from Sterling, Ill., and steel products from Kewanee, Ill. Shipments do not exceed 5,000 pounds. They are delivered on an average of four days a week. It specifies Motor Transit as the delivering carrier in all instances on account of its excellent service, including deliveries in the daytime when the consignee's yard and office is open for business. It contrasts this service with that of Iowa-Nebraska on a shipment of reenforcing rods delivered during the night and dumped in the driveway in front of an overhead door, and that of Watson Bros. attempting to make delivery of a shipment of paint at 10:30 p.m. and asking the consignee to unload. Another time Watson Bros. tried to make a night delivery of paint, could not reach the manager, and piled it in a parking lot across the street.

Victor, Iowa. A retail lumber firm sells, in addition to lumber, building material and farm supplies, and "odds and ends other than strictly building materials". It receives hardware from St. Louis, Cedar Rapids, Burlington, and Des Moines, paints from Chicago, and aluminum windows and related products from Peoria. The 5,000-pound limit interferes with some shipments. This firm uses Motor Transit's service almost exclusively on both single-line and in connection with joint-line movements. No other motor carrier renders the same kind of efficient service as Motor Transit and any curtailment thereof would complicate its business operations, because it would not know how to route shipments in less-than-truckloads so that they would be delivered with any regularity.

The pastor of a church, who is also superintendent of a school, receives practically all of the school's books and supplies, including lunch supplies, and church supplies, by Motor Transit. These books and supplies originate at Kansas City, Chicago, St. Louis, Milwaukee, Galesburg, and New York. They range in weight from 200 to 1,000 pounds per shipment. Motor Transit is the only carrier that he has been able to get expedited service from. Rail shipments take three or four weeks in transit. No other motor carrier has solicited this traffic. He has a very definite need for applicant's service.

An implement and seed firm receives implements from Sandwich, Ill., Des Moines, Cedar Rapids, and Newton, tank heaters, tanks, elevators, and hog wateries from Morton, Ill., Kansas City and certain Iowa points. The shipments average up to over 5,000 pounds. They move into Victor by Motor Transit, which service has been superior and is required in the future, particularly for the movement of emergency implement repair parts from Sandwich. Iowa-Nebraska, during the fall and winter of 1951-1952, delivered to this firm a couple of shipments of about 200 pounds each. This carrier does not provide a regular service at Victor.

An implement and allied and sundry farm item dealer receives shipments from La Crosse, Ind., Milwaukee, West Allis, Wis., Gadsden, Ala., and Kansas City. It has no shipments over 5,000 pounds. Motor Transit service has been utilized in the past and it will be needed in the future. Iowa-Nebraska has delivered a few shipments. It makes a delivery and "you do not see them again for months".

[fol. 31] *Brooklyn, Iowa.* An owner of a hardware store receives shipments of under 1,000 pounds each from Kohler, Wis., Chicago, and St. Louis. He always specifies routing by Motor Transit, because it provides the best service. Many other motor carriers operate through Brooklyn, but they seldom stop to make deliveries.

Another hardware dealer receives small shipments from Chicago and Louisville. He directs routing by applicant, but has not been successful in having this routing observed on the Louisville traffic. For example, a shipment moved from Louisville on December 18, 1951, by Huber & Huber

Motor Express, Inc. It moved through Omaha and was delivered by Iowa-Nebraska January 23, 1952. The streets and alleys in Brooklyn are narrow and consequently semi-trailers have operating difficulties in the town. Applicant avoids this by the use of smaller pickup and delivery equipment.

An owner of a lumber yard, in addition to lumber sells millwork, hardware, building materials, farm supplies, such as water tanks, heaters, and gates. He receives some of this merchandise in small quantities from Chicago and Sterling, Ill. He prides himself on giving service to his customers and this would be impossible without the very good transportation service of applicant.

The mayor of Brooklyn supports the application because Motor Transit has dock facilities to unload large semi-trailers and it delivers the freight in smaller equipment. Other motor carriers try to make deliveries from large semi-trailers. The streets are too narrow to permit the stopping and unloading of such rigs in the middle of the street. The alleys are so narrow that semi-trailers cannot use them.

Malcom, Iowa. A dealer in hardware, plumbing and heating equipment and farm supplies receives shipments from points in Illinois and Wisconsin. Motor Transit is the only carrier rendering an east and west service at this point.

A garage operator distributes petroleum products and sells automobile parts and accessories and single unit oil burners for home, office, or business use. He receives oil and grease from Illinois points, oil burners from Grafton, Wis., pumps for trucks from Omaha, and new automobile motors from points in Illinois and Indiana. Most of these shipments are less than 1,000 pounds. He has been using the service of applicant, which has been satisfactory. If this service should be discontinued it would be necessary for him to receive shipments from the east or west at Grinnell, a point ten miles west of Malcom.

Grinnell, Iowa. A distributor of tires, hardware, and home appliances such as refrigerators, deep freeze-s, toasters, ironers, and radios receives commodities from Minneapolis, and Louisville in quantities of 200 to 2,500 pounds. Motor Transit has been providing service on these

shipments. That service is not equalled by any other motor carrier. This consignee discontinued the service of one carrier from Chicago due to excessive breakage and the slow payment of claims.

A dealer in automobile supplies, housewares, and electrical appliances receives such articles from Minneapolis and Chicago in lots ranging from 500 to 1,400 pounds by applicant. Because of poor service by certain carriers in the past, he has directed the shippers to route all shipments by Motor Transit. He believes that if he is deprived of this service it would be necessary to close the store. He has to turn his stock quickly and cannot carry a large inventory. [fol. 32] A proprietor of a drug store receives the larger packages of supplies from Chicago. A few shipments originate at New York. About twice a year he receives shipments weighing 7,000 pounds each. Motor Transit's service from Chicago is almost perfect. This service is like express but cheaper. Claims are promptly adjusted.

A manufacturer of playground equipment purchases steel plates at Gary or Indiana Harbor, Ind., and tubing at St. Louis and Clinton. The steel moves in carloads and truckloads. The tubing generally moves by truck in 8,000 and 10,000 pound lots. Outbound shipments usually weight from 260 to 850 pounds. Just recently considerable difficulty was experienced in getting a motor carrier to transport a 17 ton C.O.D. shipment. Motor Transit could not handle this shipment on account of the 5,000-pound limitation. It was ultimately transported by Keeshin Motor Express. This manufacturer "had almost as much trouble collecting the C.O.D. as we had in making the original sale". Some shipments of tubing from St. Louis are not handled promptly by the originating motor carrier and sometimes the delay at the interchange point, Des Moines, is ten days. In these instances the connecting carrier was not Motor Transit. That carrier always gives excellent service. During the latter part of December, 1951, thirty tons of steel plate was delayed about five days owing to the lack of trucking facilities at point or origin.

A dealer in hardware, appliances, plumbing, and heating supplies, receives such articles from Chicago, Louisville, St. Louis, Omaha, Milwaukee, Davenport, Des Moines, and

Kohler, Wis. Some few shipments weight in excess of 5,000 pounds. He has tried all carriers serving Grinnell and because of the better service, in all respects, Motor Transit routing is always specified where that service is available. If this service is curtailed or eliminated, he will probably purchase motor equipment.

An owner of a variety store receives 90 percent of his merchandise in shipments up to 1,000 pounds from Chicago, by applicant's service. This service can always "be counted on". He has had unfortunate experiences with other motor services especially in connection with seasonal goods.

A manufacturer of women's shoes, employing about 125 persons, receives various raw materials from many points east of the Mississippi River, which generally move by Motor Transit from Chicago. Some past shipments were in excess of 5,000 pounds and there will be like shipments in the future if market conditions are favorable. Outbound shipments average 150 pounds each and they generally are destined to points in the midwest. Some few of them move to eastern and western points. This manufacturer fills orders the same day they are received and insists that they move out of Grinnell by late afternoon of the same day. Motor Transit furnishes this kind of service and it has been and is being used exclusively. The services of three or four other motor carriers have been used and found to be unsatisfactory because the cartage agent for those carriers does not make the pickup as promptly as Motor Transit.

Kellogg, Iowa. A company manufacturing washing machines, drain tubs, and repair parts, a subsidiary of the Stamping Company, referred to in the next succeeding paragraph, ships such products to every State and to ten foreign countries. It produces 18,000 washers and from 60 to 70 thousand units of drain tubs a year. The greater part of the shipments have been moved by applicant in quantities ranging from 100 pounds to a truckload. Other motor [fol. 33] carriers serving Kellogg will handle volume shipments, but neglect the small shipments. This business has been practically built around applicant's service. The 5,000-pound limitation has been and is a detriment to its operation.

The purchasing agent for a Stamping Company employing 200 persons also buys for its subsidiary the Washing Machine Company mentioned in the preceding paragraph. Job stamping is the business of the Stamping Company. It makes parts out of steel, aluminum, copper, and brass and its customers are located throughout the midwest. The subsidiary uses certain stamping in assembling the washing machines. Another subsidiary is a lumber division. In addition to these articles, there are inbound shipments of crating, lumber, motors, castings, screw machine parts, tubes, rubber goods, and plastics principally from midwest points such as Chicago, Milwaukee, Minneapolis, and St. Louis. Some of these commodities move by rail and others, from 100 to 10,000 pounds, move by truck. More than half of this traffic arrives by Motor Transit, which is the carrier that the Stamping Company always specifies. The remainder of the shipments are those on which it does not control the routing or those such as steel that usually move by contract carriers or livestock haulers. The 5,000-pound limitation has on several occasions affected its business. Purchases of some articles, such as paint, have been in smaller quantities as a result thereof. No other motor carrier provides the excellent regular service rendered by Motor Transit. There is no other carrier to take its place.

Newton, Iowa. A lumber company with places of business at Newton, Colfax, Mitchellville, Altoona, and (Van Meter, a point about 20 miles west of Des Moines on Iowa Highway 90, which is one of applicant's authorized routes) sells lumber and general building materials, such as steel, paint, gypsum, hardware, fencing and roofing materials, steel posts, and millwork. The millwork originates along both sides of the Mississippi from Dubuque to Muscatine. Its principal sources are Rock Island and Clinton. The shipments range from a few hundred pounds to 7,000 pounds. Paint moves from Chicago in less-than-truckloads and in truckloads. Small shipments of various commodities weighing up to 700 pounds are received from interstate points. Motor Transit previously transported practically all of this traffic to the points named. Since the imposition of the weight limitation other carriers have been furnishing service on shipments of over 5,000 pounds. It has used

Motor Transit service largely because it has "taken good care of us". It is a convenience to have deliveries of both interstate and intrastate freight made by one carrier as the alleys are narrow and several carriers trying to make deliveries interfers with its normal business operations.

A manufacturer of advertising specialties receives steel, glass, wood, paper, and paint from various points, Chicago and east, Kansas City, and Minneapolis. Occasionally there is a small shipment of paint from California. Shipments from Chicago and eastern points move from Chicago by Motor Transit or Western Transportation Company. From Kansas City and Minneapolis they move mostely by Motor Transit. That carrier, in the event the 5,000-pound limitation is removed, will receive its share of the truckload glass traffic from Vincennes, Ind. Outbound shipments range up to 2,500 pounds. All of this traffic is routed Motor Transit, except in instances where it cannot handle the shipment. [fol. 34] A manufacturer of gas tractor driven, and wind driven, generators, used by hospitals and various organizations as stand-by units in the event of power failure, and by communities and farmers having no electrical service, and a complete line of specialized agricultural implements, such as post-hole diggers, trailer farm wagons, fertilizer distributors, and wagon boxes, both steel and wood, receives steel, copper, wood, and forgings, employs 132 persons. Prior to September, 1951, Motor Transit hauled 90 percent of the steel from the Chicago area, in both less-than-truckloads and in truckloads. Other carriers' service on this traffic has been poor. The forgings move from St. Paul by Motor Transit. In the past two years forgings have become very hard to get and as a result shipments rarely exceed 5,000 pounds. Its outbound shipments, ranging from 200 to 10,000 pounds, move to points in practically every State, and wherever possible Motor Transit service is utilized, because the use of one carrier results in fewer trucks at the loading platform and the certainty of good service. It is hard to get other carriers to haul some third class items when they can get first class freight. Some shipments have stayed on the carriers' docks in Kansas City for a long time. In 1950 Motor Transit handled 1,345 shipments outbound, which is about 92 percent of such

shipments. In 1951 it handled only 838 shipments due to the 2,000 and 5,000 pound limitations. The inbound and outbound tonnage handled by Motor Transit in 1950 was 249,772 and 1,048,707 pounds, respectively. On account of the restrictions this manufacturer has purchased motor equipment to provide some of its transportation requirements and if Motor Transit's service is further curtailed or eliminated it probably will buy more equipment and also ask the dealers to "come after their shipments". Motor Transit is the only carrier serving Newton that provides its own rate and dock service. If this rate service were not available this manufacturer would have to set up its own rate service at considerable expense. It points to a recent instance where a sale of 1,040-pound item would have been lost if it had not been able to immediately obtain the rate from Motor Transit's rate service.

Colfax, Iowa. A manufacturer of folding tables, benches, and chairs is presently using applicant's service both inbound and outbound on shipments under 5,000 pounds, which tends to increase the freight charges since it is necessary in some instances to split a shipment in order to come within the weight limitation. This limitation has prevented this shipper from routing truckloads of steel from Chicago by applicant. Its service is not equalled by any other motor carrier. Such other carriers do not provide regular service, often attempt to make deliveries after the plant is closed, and generally subordinate the local Colfax service to their line-haul operations.

A producer of a new type of soft drink distributes its product throughout the United States in shipments of under 2,000 pounds each. Its inbound shipments of supplies generally originate at Chicago. It has learned by experience that Motor Transit's service can be relied upon, even on shipments requiring expedited handling, which is not the case when shipments move by other motor carrier service.

An operator of two stores, a department store and a variety store, receives inbound shipments from Chicago, St. Louis, St. Joseph, and Kansas City. Prior to September, 1951, these shipments were delivered by Motor Transit. Since then his routing on these less-than-truckload (500 to 1,000 pounds) shipments have been disregarded. Watson

Bros. transport many of these shipments and transfer them to Iowa-Nebraska for delivery. This joint service takes [fol. 35] about two days longer than the former service by Motor Transit, and it is not satisfactory. Iowa-Nebraska service is slow. It does not provide regular daily service at Colfax and is very slow in settling claims. Rail service from Chicago takes about two weeks as compared with next morning delivery by applicant.

Mitchellville, Iowa. A dealer in farm implements and trucks has been using Motor Transit's service from Moline, Streator, and Morton, Ill., on small shipments. Occasionally shipments of grain elevators exceed 5,000 pounds. No other carrier provides the regular, fast, and dependable service maintained by Motor Transit. This service is needed to meet this dealer's requirements.

Altoona, Iowa. An operator of a service station and garage, who also deals in television sets, refrigerators, hot water heaters, and stoves, receives oil and grease from Des Moines and electrical appliances from points in Illinois and New York. Some of these commodities move in carload lots to Des Moines and are distributed to various dealers from that point. He has been using applicant's service in connection with shipments from St. Paul, Kansas City, and Chicago. No other carrier has solicited this traffic.

Des Moines, Iowa. A wholesale dealer in hardware and allied supplies receives shipments from Chicago and east. It ships from Des Moines to points throughout Iowa. Occasionally this dealer orders shipments delivered direct to his customers located at points on U. S. Highway 6. Some of these shipments moved by applicant and prior to September, 1951, it also handled inbound shipments exceeding 5,000 pounds, but since that limitation was imposed on applicant it has been forced to use another motor carrier. It believes that if applicant is required to limit its interstate operations it will result in a deterioration in the intrastate service of applicant, which would be a detriment to its business.

A wholesale distributor of drugs, chemicals, turpentine, linseed oil, and numerous other items has used the service of Motor Transit and also the services of several other motor carriers. Some shipments exceed 5,000 pounds. The

witness for this firm does not control the routing of interstate traffic and he had no authority to testify in this respect.

A manufacturing company buying merchandise (clothing) and distributing it from Des Moines receives interstate shipments weighing 1,000 pounds or less by Motor Transit service. This carrier also prior to September, 1951, provided overnight service on outbound shipments to Omaha and Lincoln, Nebr., but this satisfactory service was discontinued about that time and it was necessary to find another carrier. Watson Bros. since that time has been moving this traffic.

A wholesale hardware company, handling also gas stoves and paints, receives shipments from various points in the eastern part of the United States and ships outbound to Omaha, Moline, and points in Iowa and Missouri. The inbound shipments range from 10,000 pounds to minimum truckloads. The outbound shipments are usually less than 5,000 pounds. Motor Transit handled some of the inbound traffic prior to September, 1951, but since then other motor carriers have been handling this traffic satisfactorily. It is fearful that the restricting of Motor Transit's interstate traffic will cause it to curtail its excellent intrastate service from Des Moines to points on U. S. Highway 6. Occasionally interstate shipments are made direct from factory to this company's customers located on that highway and usually such shipments are routed Motor Transit because it gives the best service.

[fol. 36] A factory representative located at Des Moines sells heating and plumbing equipment manufactured at and shipped from Chicago, and Waukegan, Ill., and Hartford, Conn., (1) direct to the purchaser, or (2) a small part, five to ten percent, of the shipments are consigned to him at Des Moines. One-third of these movements are in truckloads and the remainder in less-than-truckloads, from 100 pounds up. He designated routing by applicant on most shipments destined to points on its routes, until he had to discontinue such designation on shipments exceeding 5,000 pounds. Since then some shipments have moved by rail from Waukegan to Des Moines. They were in transit from two to three weeks, which is entirely unsatisfactory service,

particularly on emergency shipments. Some other shipments, weighing more than 5,000 pounds, have moved by other motor truck lines and their services were not, in all instances, to his liking. He expresses his need as follows: "Please let me ship the way it was before the restriction went in and I will be happy about it".

Dexter, Iowa. A farm implement and automobile dealer receives automobile parts from Chicago and implement parts from Moline. He has used the service of Motor Transit on all these shipments. No other carrier makes a regular scheduled stop at this point and none of them provide the same high quality service maintained by Motor Transit. He desires continuation of this service because repair parts are usually needed promptly. Rail shipments from Moline are too slow. They take from ten to fourteen days. Motor Transit's service from Moline is overnight or second day.

Stuart, Iowa. A hardware, appliance, plumbing and heating dealer purchases these articles at Chicago, Kansas City, Omaha, Rockford, Winona, and the Twin Cities and for the transportation thereof he uses the service of Motor Transit almost exclusively, because it is very satisfactory. Certain other motor carriers' service also have been satisfactory, but he says that Iowa-Nebraska has not settled any of the three claims filed by him. He claims that curtailment of applicant's service would make it harder for him to do business.

Menlo, Iowa. An owner of a variety and dry goods store receives merchandise from Chicago, Omaha, Kansas City, and the Twin Cities, and most of it moves by Motor Transit. Some shipments from Omaha have been routed Iowa-Nebraska. She has had no complaint against either of these carriers, but the former provides daily service as compared with twice weekly by the latter. She believes that sales would be lost, particularly around Christmas, if Motor Transit's service is not available to the same extent as in the past.

Casey, Iowa. A dealer in hardware, appliances, and plumbing supplies receives shipments from Minneapolis and Omaha. Those from Minneapolis move by Motor Transit at the direction of this dealer, and those from Omaha are routed Iowa-Nebraska by the consignor. He started using Motor Transit service at the suggesting of his prede-

cessor who informed him that "it is the best available" and he has found this to be so. That carrier provides a fast daily service, and any curtailment thereof would be inconvenient. He has no complaint regarding Iowa-Nebraska service.

A merchant selling general merchandise purchases various articles, at Omaha, Kansas City, St. Louis, Morris and Chicago, Ill. These shipments are delivered to him by Motor Transit. He directs that they move by that carrier, because in the past he has had some unsatisfactory experiences with respect to shipments moved by other motor carriers. Motor Transit maintains a regular daily scheduled service at Casey. The other carriers do not provide [fol. 37] such service and some of them expect him to take delivery of merchandise after the store is closed or before it is open in the morning. Iowa-Nebraska serves this point twice weekly. Without the type of service rendered by Motor Transit he would discontinue handling linoleum and to continue the remainder of the business he would purchase and operate motor equipment.

Adair, Iowa. A dealer in farm machinery, parts, motor trucks, and refrigerators receives small farm implements and repair parts from Rock Island, St. Paul, Minneapolis, Des Moines, and Columbus and Omaha, Nebr. All of these shipments, ranging up to 1,500 pounds, are transported by applicant, except a few from Omaha and west thereof that are moved by Iowa-Nebraska. The services of both of these carriers have been very good. The 5,000-pound limitation has not affected his transportation requirements, but he needs continuation of Motor Transit's five day a week service as Iowa-Nebraska services this point only two or three times a week.

A lumber company retailing lumber, coal, fencing, hardware, paints and like items receives paints from Minneapolis and Kansas City, hardware from Omaha, Des Moines, and Chicago. These shipments move by applicant, except that some of them from Omaha are routed Iowa-Nebraska. It has no complaint with either of these services. Applicant, however, provides the better service. No other carrier gives Adair regular service five days a week. It doubts that other carriers would offer like service if applicant's operations are confined to rail-billed freight.

Anita, Iowa. The municipally owned power and water works receives barreled lubricants and greases from Omaha, pipe and fittings, wiping rags, tools, and meters, from Joplin and Des Moines. These articles have been moved predominantly by Motor Transit. This service has been excellent and it is preferred to that of Iowa-Nebraska.

A dealer in farm implements and machinery is primarily interested in applicant's service on small shipments of repair parts from Omaha and the Tri-Cities, because that service is the best available. Iowa-Nebraska handles only prepaid shipments of tires from Omaha for him. Applicant is the only carrier giving a regular daily service. Unless some other carrier would replace applicant's service, he would have to operate his own vehicles to and from Omaha practically every day, a distance of 70 miles each way.

Wiota and Atlantic, Iowa. A merchant operating two hardware, furniture, and appliance stores at Atlantic and one store at Wiota, which also stocks farm supplies and equipment, purchases hardware, paints and various other items, at Omaha, Des Moines, Ottumwa, and Chicago, and furniture and appliances at Omaha, Des Moines, Chicago, and points in Missouri. These articles move principally in lots of not over 2,000 pounds (about two shipments a year exceed 5,000 pounds) and they are transported mainly by Motor Transit. Some of them from Omaha move by Iowa-Nebraska at the direction of the consignor. Curtailment of Motor Transit's service would inconvenience these two communities, because they have become accustomed to the good service rendered by it, including prompt tracing of shipments and processing of claims. Iowa-Nebraska and Watson Bros. are very careless in handling such matters.

Atlantic, Iowa. An automobile agency receives automobile parts and supplies from Chicago, Janesville, Wis., and Flint, Mich. These shipments weigh up to 2,500 pounds and they move by Motor Transit in single-line or joint-line [fol. 38] service. It is a fast dependable service and is required to secure the quickest possible service on urgently needed parts. Such parts are ordered one day from Chicago and usually they are delivered the next day by Motor Transit.

Atlantic and Griswold, Iowa. The latter point is on Iowa Highway 100 south of U. S. Highway 6. A merchant operating stores at these points deals in farm equipment, well and water supplies, and hardware. Shipments of these articles range up to 6,000 pounds. They originate at Lexington, Ky., St. Louis, Minneapolis, Chicago, Omaha, Des Moines, Ottumwa, and St. Joseph. He specifies delivery by Motor Transit. Iowa-Nebraska, Watson Bros. and Bos Truck Lines, Inc., hereinafter called Bos, also provide service at Atlantic. In addition to applicant, Griswold is served by two other small carriers, Thornton Transfer and McVey Transfer, operating from Omaha. This merchant believes that the continuation of applicant's service without restrictions, is necessary to prevent an increase in his cost of doing business and to provide the best service available at these points.

A wholesale distributor of food, confection, and tobacco products receives shipments, ranging up to 20,000 pounds, from Chicago and east and from west coast points. Applicant's service has been used quite extensively in the movement of these commodities. Since the limitation was imposed another motor carrier has been handling shipments exceeding 5,000 pounds, but it has experienced some difficulties with this carrier's service, and believes that the limitation should be removed. Without applicant's service, it would have to figure longer in transit time for shipments and to arrange for a larger inventory.

Oakland, Iowa. A dealer in hardware, appliances, and furniture, who also operates a funeral home, receives furniture from Kansas City and hardware from Chicago. These shipments usually do not exceed 1,000 pounds each, and they move by Motor Transit, the only regular dependable service from the east. Iowa-Nebraska, in addition to Motor Transit, provides service from Omaha.

A gas plant, employing 51 persons, operates a compressor booster substation on a gas pipe line. It obtains repair parts for engines from points east of the Mississippi River. These shipments do not exceed 5,000 pounds, and they are usually delivered by Motor Transit, which is the only carrier rendering regular daily service from the east. Iowa-Nebraska makes some deliveries (on call only) from Omaha.

Council Bluffs, Iowa. A manufacturer of hammers for feed and flour grinder hammer mills receives steel in lots of 10,000 pounds or more from Erie, Pa. Prior to September, 1951, these shipments moved by Motor Transit from Chicago. Since that date they have been moving by Prucka Truck Line or On-Time Truck Line and their services have been reasonably satisfactory. Its out-bound shipments, weighing from 150 to 1,500 pounds, move to Iowa and Illinois points, Minneapolis, Kansas City, and St. Joseph and Motor Transit service is used wherever possible, because it is superior to other services. Watson Bros. have failed to pickup shipments for two days. The service to Nebraska points of Darling Truck Lines was very unsatisfactory.

Omaha, Nebr. A storage battery company ships such batteries in quantities of 250 to 750 pounds to points in the western one-fourth of Iowa and to points in Nebraska. The consignees control the routing of these shipments, [fol. 39] but the shipper is concerned because Motor Transit is the only service available to certain points in Iowa. This company in the past has received certain commodities in truckloads from interstate origins by Motor Transit and the service would be used again if it becomes available. Some of this truckload traffic formerly moved and is presently being transported by other available motor carriers.

A company operating a large coffee roasting plant and distributing hardware ships to points in Iowa, Nebraska, and southern Minnesota. For many years it has used applicant's service to points served by it, particularly those on U. S. Highway 6 in Iowa. During the period from January to August, 1951, it shipped 50 truckloads of coffee by applicant to points in Iowa, and to Minneapolis and Rock Island. These shipments are now moving by other carriers. Less-than-truckload shipments of coffee ranging from 150 to 4,100 pounds, are also transported by applicant to many points on its lines in Iowa. For example in June, 1951, fifty-seven shipments moved to fifty destinations and in August, 1951, there were about one hundred such shipments. Hardware shipments average 1,500 pounds each. They move almost as frequently as coffee to destinations on applicant's lines west and north of Des Moines. This carrier is the only one that provides a direct single-line ser-

vice to a number of points. Some other carriers possess authority to serve designated points, but they will not handle less-than-truckload traffic for such points. This shipper knows of no carrier that would completely replace the service applicant rendered prior to August 30, 1951. That type of service should be continued by this carrier. Its handling of volume traffic is necessary to a proper rendition of such complete service.

Points on Fred-rickson Line in station order west from Atlantic: *Marne, Iowa.* A general merchandise store handling dry goods, feeds, clothing, and groceries receives small shipments by Motor Transit's regular daily service. If this service should be reduced to twice weekly, he would have to buy in larger quantities instead of purchasing day to day requirements as at present. Shipments of 5,000 pounds or more are now moving by Rock Island, which carrier is now in the process of abandoning its tracks through Marne. When this is accomplished the nearest railroad station will be Atlantic, six miles distant. Iowa-Nebraska serves Marne, but this merchant does not believe that it can replace the service of Motor Transit, which he and his predecessor have relied upon for many years.

Walnut, Iowa. The mayor of this town is a dealer in medicines, insecticides, stock feeds of different kinds, wax, polish, and other items. He receives these articles from the manufacturer at Freeport, Ill., in shipments of 250 to 600 pounds. They are delivered by applicant within seven to ten days after the order is placed. He stores the articles in his home and owing to limited space he has to order frequently and require fast transportation service. He has not used Iowa-Nebraska service because more than one transfer in transit is necessary, which causes delays. When Rock Island relocates its main line, Walnut will be on a branch line.

Shelby, Iowa. An operator of a general repair garage receives batteries from Kansas City, Kans., and automotive parts from Omaha. They move principally by Motor Transit, as it is the only carrier providing daily service. Rheiner Bros. operate a twice weekly service between Omaha and Shelby. Iowa-Nebraska also serves Shelby. This operator is mayor elect and desires to retain Motor Transit's

service for the benefit of the town, particularly since Shelby will be in the same situation as Walnut regarding past and future railroad service. Personally he only receives about two shipments a year.

[fol. 40] A resident speaking on behalf of the community is of the opinion that the daily service of applicant is a necessity to the future welfare of the town.

Minden, Iowa. A dealer in hardware and supplies receives a few small shipments from Chicago and Omaha. Those from Chicago and perhaps a few from Omaha move by applicant.

Neola, Iowa. A farm implement and equipment dealer receives small shipments from Kansas City and Rock Island. The movement from Kansas City began in January, 1952. Only three shipments moved during the first three months of that year and they were transported by Motor Transit, which also hauls the four or five shipments a year from Rock Island. He does not know of any motor carrier that provides the same kind of service Motor Transit furnishes from these points. Neola like the other points just discussed above will be on a branch line of the Rock Island after the relocation of its main line.

Underwood, Iowa. The owner of a general store and locker plant receives practically all of his supplies from Omaha by Kroeger Transfer Company. Motor Transit is the only carrier rendering regular daily service from Eastern interstate origins. Abandonment by Rock Island of its rail service will leave Underwood without rail freight service.

Points on Frederickson Line in station order north from Oakland: Hancock, Iowa. A distributor of petroleum products, tires, batteries and oil, with seven outlets, obtains lubricating oils, in cans weighing less than 5,000 pounds per shipment, from Chicago by Motor Transit. It is the only regular daily motor service at this point. Hancock will be on the relocated main line of Rock Island.

Harlan, Iowa. One of the partners in the Frederickson operation, which was sold to applicant, during the past seven years has been engaged in various businesses, principally in the wholesale distribution of various products, such as candies, cigarettes, tobacco, fountain supplies, and paper

goods. He receives shipments from Chicago, St. Louis, and eastern points and they move direct by, or are interlined with, Motor Transit. He uses Motor Transit because it furnishes the best service available.

An automobile dealer purchases repair parts in Kansas City. About one shipment (under 5,000 pounds) a week of such parts is transported by applicant, because it affords the quickest delivery.

Testimony of Opposing Motor Carriers

Iowa-Nebraska maintains headquarters at Avoca, Iowa, a point on the Frederickson route between Council Bluffs and Atlantic, and terminals at Avoca, Omaha, Des Moines, Chicago, and New York City. It provides pickup and delivery service through agents (cartage companys) at Davenport, Iowa City, Cedar Rapids and five other points not here involved. Its owned equipment consists of 8 straight trucks, 22 tractors, and 23 trailers, of which 20 are refrigerated. Of this equipment eight units are used in pickup and delivery service, two at Omaha, two at Des Moines, three at Avoca, and one at Chicago. Five of the tractors are leased to owner-operators who are purchasing them and they, together with lessor and lessee owned trailers, are used exclusively in hauling dairy products eastbound to Chicago, Philadelphia, Pa., New York City, and Boston, Mass., and general commodities westbound. Nine of the units are used the same type operations. Three units are used in over-the-road service between Omaha and Des Moines. The remaining five units are used to provide service on the rest of this carrier's authorized routes. In [fol. 41] addition, it utilizes on a trip lease basis 42 tractor-trailer units. The rules prescribed in Ex Parte No. MC-43, *Lease and Interchange of Vehicles by Motor Carriers*, 52 M.C.C. 675, decided May 8, 1951, do not permit trip-leasing. The validity of these rules were tested in the District Courts of the United States for the Northern District of Alabama and for the Northern District of Indiana and both courts refused to enjoin the enforcement of such rules. These actions were appealed and the United States Supreme Court in *American Trucking Assoc.* v. *United States*, 340

U. S. 298, decided January 12, 1953, affirmed the decisions of the District Courts.

As of March 31, 1952, this carrier's assets consisted of $15,181 cash, $54,827 accounts receivable, $194,945 operating property, $4,650 special deposits, $2,500 permits, $6,066 material and supplies, and $16,502 prepayment, and its liabilities were $10,000 capital stock, $65,454 surplus, $104,215 reserve for depreciation, $42,826 accounts payable, $42,234 notes payable, and $29,940 drafts payable. During the first three months of 1952 its net operating income was $4,395 out of a total operating revenue of $255,606.

This carrier holds certificates to transport general commodities, with exceptions, (1) between Chicago and Omaha (a) over a route not involved in this proceeding, (b) so far as here pertinent over the routes under consideration west from the Tri-Cities to Omaha through Atlantic and Avoca (and also over U. S. Highway 6 from Atlantic to Omaha) and return, and (c) from Tri-Cities over U. S. Highway 6 to Iowa City and thence over routes not here involved, and return, serving all intermediate points in Iowa, (2) between Cedar Rapids and Iowa City, over the route here involved, serving all intermediate points, (3) between Marengo and Belle Plaine, Iowa, over a route not here involved, serving all intermediate points, (4) between Marshalltown, Iowa, and Des Moines, over a route not here involved, serving all intermediate points, and (5) between Avoca and Des Moines, over a route not here involved, except that portion of Iowa Highway 64 between Avoca and Harlan, serving all intermediate points, (6) to transport packing-house products and fresh meats between Omaha and Arcadia, Iowa, over a route not here involved, serving all intermediate points and 16 off-route points, including Hancock, Shelby and Walnut points directly involved in this proceeding, and Brayton, Exira, Guthrie Center, and Hamlin, Iowa, points indirectly involved here, and (7) service is authorized to and from points within 12 miles of the central post office, Des Moines, except five designated points, as intermediate and off-route points in connection with this carrier's presently authorized regular-route operations to and from Des Moines.

It also holds common carrier irregular-route authority to transport (1) fresh meats, packing-house products, and

packing-house supplies between Omaha and eleven points in Iowa, of which only one, Harlan, is on a considered route, (2) butter, eggs, and dressed poultry, minimum 16,000 pounds, from Omaha and points within 100 miles thereof to New York City, Philadelphia, and Boston, and (3) general commodities, with exceptions, from New York City to Chicago, and mica splittings and dust from New York City, Cohoes, and Utica, N. Y., to Valpar-iso, Ind. It is also certificated over regular and irregular routes to haul butter, eggs, and dressed poultry and agricultural commodities from Avoca, Harlan, and Exira to Chicago.

Prior to sometime in February, 1952, Iowa-Nebraska operated a unit of equipment from Omaha, between ten p.m. and midnight, to Des Moines. It moved to Avoca and layed over until morning, then moved through Atlantic, peddling the witness "believed" at all points on Iowa Highway 83 and U. S. Highway 6. After that time it inaugurated a [fol. 42] peddle operation from Omaha to Atlantic, serving Avoca, Walnut, Marne, and Harlan, and an operation over U. S. Highway 6 from Omaha, between ten p.m. and midnight, to Des Moines peddling Oakland and Atlantic and transporting freight for points on that highway east of Atlantic to Des Moines, where it is transferred to other equipment and peddled west the next morning as far as Anita, or Wiota if necessary, and then this unit usually proceeds to Guthrie Center, Iowa. The unit unloaded at Des Moines is reloaded and moves back to Omaha the next night. It conducts two other peddle operations, inaugurated "to best of my (witness) knowledge" in January 1949, one between Des Moines and Jefferson through Ames, Iowa, a route not here involved, and the other from Des Moines to Cedar Rapids, either (a) over U. S. Highway 6 to Marengo serving the intermediate points, and if traffic warrants thence to Cedar Rapids, if not, the equipment returns to Des Moines from Marengo, or (b) over Iowa Highway 64 to Marshalltown and U. S. Highway 30 to Cedar Rapids and return, serving the intermediate points, or (c) outbound from Des Moines over (a) above and returning to Des Moines from Cedar Rapids over (b) above, or in the reverse direction, depending on whether the greater volume of traffic on the truck is for delivery at points on the route through Marshalltown or the route through Marengo.

From Chicago to points west of Davenport in Iowa on the considered routes Iowa-Nebraska is presently providing truckload and less-than-truckload service "whenever the traffic demands". This service, including delivery, is for the most part performed by over-the-road equipment and some of this traffic has been transported in owner-operator equipment on a trip lease basis.

During the period from September 27, 1951, to April 19, 1952, Iowa-Nebraska transported (1) about 450 small shipments (only 36 of them weighed over 1,000 pounds) from Omaha, both originating and interchanged traffic, to points on the White and Frederickson Lines; (2) about 260 small shipments (only 22 of them weighed over 1,000 pounds) from Des Moines; and (3) about 235 similar shipments (only 9 of them weighed over 1,000 pounds), from Chicago. Sixty-five shipments originated at two points, Stuart and Mitchellville, on the White Line. Those from Stuart weighed 2,300 pounds and those from Mitchellville aggregated 26,527 pounds. This carrier has transported more of this traffic particularly that received from connecting lines, since the restrictions were imposed on Motor Transit's authorities, September 11, 1951. It admits that in February, 1952, it was performing more peddle service than it had been rendering prior thereto, that the peddle operation between Omaha and Des Moines has been changed, that an additional pickup and delivery truck has been added at Omaha; and that the peddle operations are losing money. Such operations, however, will be continued providing the traffic warrants such action. This carrier expresses a willingness and ability to purchase additional equipment to meet any demands for service that may result from curtailment or discontinuance of service by Motor Transit. The witness testified that 65 percent of this carrier's business is truckload traffic and did not dispute opposing counsel's observation that its annual report to this Commission showed the truckload traffic to be 80 percent.

Bruce Motor Freight, Inc. This carrier operates between St. Louis, Kansas City, Des Moines, and the Twin Cities. It serves no points on U. S. Highway 6, except Des Moines, where it crosses this highway. At this point it interchanges freight with all carriers serving any point on U. S. High-

way 6 in Iowa. It has no problem at Des Moines disposing of such interline traffic. Peddle service is provided at Pella and Oskaloosa by its line-haul equipment operating between [fol. 43] Des Moines and St. Louis and through a cartage agent at such points. It also renders service at Indianola. Some outbound shipments from Pella are hauled by Bruce's cartage agent to Des Moines for loading and movement in its line-haul equipment. This method of handling is used to give the shipper better service. From the Twin Cities to Des Moines its equipment is being loaded only to 75 percent of capacity and some times units are returned to Des Moines empty. From Des Moines to St. Louis the units are utilized only to 60 percent of capacity. The Des Moines-Kansas City operation is balanced.

Bruce's competition consists of eight common carriers between the Twin Cities and Des Moines, five between Kansas City and Des Moines, and three between Des Moines and St. Louis. It professes to believe that applicant would be "a brand new truck line starting up in business between the Twin Cities and Kansas City."

The witness for this carrier picked out ten of the shippers who supported the application located at Pella, Oskaloosa, Kansas City, Minneapolis, and Des Moines that Bruce has served and assumes such service was satisfactory since these shippers had not complained. It is his opinion that the granting of the application would seriously affect Bruce, because of many advantages, naming two; (1) difference in rates, and (2) loading equipment with rail-billed freight to prevent its being returned empty to a terminal.

Pasch Transfer. This trucker conducts a transfer and storage business at Grinnell. At that point, he performs cartage service for "Des Moines Transportation, the Van Wyk, Western, * * * M. & St. L. Railroad and their truck line". Every day he handles freight, mostly in less-than-truckload, from Chicago and western points, and less frequently from Minneapolis-St. Paul, Kansas City, and the Tri-Cities. Most of the shipments handled are from the east. He serves practically every business in Grinnell, including those firms and individuals supporting this application.

Bos Truck Lines, Inc. This carrier operates 40 tractors, 60 trailers, 17 trucks, and it uses leased equipment.

It employs slightly more than 100 persons. So far as here pertinent it possesses general commodity authority between Chicago and Kearney and Hasting-, Nebr., over designated highways, including that portion of U. S. Highway 6 in Iowa involved in this proceeding, serving all intermediate points and the off-route points of Mitchellville and Kellogg. Terminals are maintained at Chicago, Marshalltown, Des Moines, and Omaha.

Its daily operations on U. S. Highway 6 consist of over two units between Chicago and Omaha, one or two units from Omaha to Des Moines, and two or three from Chicago to Des Moines. Two or three times a week a peddle truck is operated east from Des Moines to Grinnell and return, and one is operated from Des Moines to Anita about three times a week, serving Redfield and points west thereof, and return. Mitchellville and Altoona are served by over-the-road trucks. Atlantic, Cedar Rapids, and Newton are served through cartage companies. Brooklyn is served on a "call and demand" basis. Durant traffic moved by Bos to Cedar Rapids and is transferred to an intrastate carrier for transportation to destination. Small shipments for points not served by the aforementioned peddle operations are delivered to connecting carrier for movement to destinations. During the past six months no difficulty has been experienced in getting the connecting lines to accept these small shipments. The tonnage transported by it has increased each year since 1945. Its operations are changing from pre- [fol. 44] dominately truckload to less-than-truckload owing to the contract carriers taking over the truckload business. This carrier also professes to believe that granting of the application would be detrimental to its operations.

Des Moines Transportation Company, Inc. This carrier operates approximately 300 tractor-trailer units and maintains terminals at Des Moines, Omaha, Mason City, the Twin Cities, and Chicago, and a "terminal setup" at the Tri-Cities. It holds, among others, general commodity authority from Chicago over certain highways to Moline and thence over U. S. Highway 6 to Omaha and return, serving the intermediate points of Davenport, Iowa City, Newton, Des Moines, Cedar Rapids, Marengo, Grinnell, Kellogg, Adel, Atlantic, and Council Bluffs. Traffic to and from the

Tri-Cities is picked up and delivery for Des Moines Transportation by Roederer Transfer and Storage; by a commission agent, Maher Brothers, at Iowa City; by Pasch Transfer at Grinnell; by a local cartage agent, Merchants Transfer Company, at Newton; by a local cartage agent, Smiley Transfer, at Atlantic. Marengo and Kellogg are serviced by road-haul equipment. It operates one or more trucks daily from Chicago to Omaha, and several trucks daily from Chicago to Des Moines. In the opposite direction there are daily operations, the number of trucks depends on the volume of traffic, from Omaha and Des Moines to Chicago. A daily peddle service is provided on interstate traffic at authorized points on U. S. Highway 6 east of Des Moines to Davenport. Sometimes the equipment is not returned from Davenport. It might contain freight for Chicago, Peoria, or beyond and move eastw d to such points. Peddle service is also provided in the reverse direction. Daily service on less-than-truckload and volume shipments to authorized points on U. S. Highway 6 in Iowa is provided from Chicago and Omaha. Shipments moving by Des Moines Transportation from the Twin Cities would be delivered the next day at Newton. Eighty-one percent of its less-than-truckload traffic averages less than 600 pounds per shipment. If necessary this carrier would seek authority to serve additional points on U. S. Highway 6 in Iowa so as to offset any curtailment in the service of Motor Transit.

P & W Truck Line operates 7 trucks, 14 tractors, and 22 semi-trailers. It holds a certificate to transport, among other things, machinery and farm equipment and parts thereof from Milwaukee, Wis., and Canton, Chicago, East Moline, Rock Falls, Rock Island, and San-wich, Ill., to points in the southeastern three-fourths of Iowa, including points on U. S. Highway 6 east of Stuart, binder twine from Chicago to the same area, and iron and steel products from the Chicago commercial zone to Omaha and points in southeastern Iowa on or enclosed by U. S. Highways 6 and 169, over irregular routes. Eighty-eight freight bills were presented for inspection as representative of its operations during the period February 4 through 9, 1952. All of these shipments originated in the Chicago commercial zone and 34 of them, truckloads of steel, moved to Des Moines, Kel-

logg, Newton and Davenport-Bettendorf, points on U. S. Highway 6. The remaining 54 shipments moved from Chicago to Ottumwa. At the time of the hearing, May 21, 1952, this carrier was hauling binder twine, tractors, steel, household goods, and rendering works equipment and machinery. It believes that its business would be "hurt" if the authority sought is granted.

Smiley Transfer and Storage, hereinafter called Smiley, conducts a drayage, storage, and moving business at Atlantic. It operates two trucks and one van. It picks up and delivers shipments for Watson Bros., Des Moines Transportation, Bos, and Iowa-Nebraska. These carriers' equipment are at its dock as follows: Watson Bros. on the average of three or four times daily, Des Moines Transportation on the average of four days a week, mostly from the east [fol. 45] with shipments ranging from minimum to truckload, Bos every night, except Friday, from both the east and west, and Iowa-Nebraska twice a day from Omaha and Des Moines handling about 20 to 25 shipments a day. Smiley's volume of such freight a day ranges from 10,000 to 90,000 pounds. The line-haul carriers frequently handle freight for some of the shippers at Atlantic that are supporting the instant application. Smiley has had no complaint about their services.

Maher Brothers Transfer performs local drayage at Iowa City and Coralville for Poole Transfer, Watson Bros., McCoy Truck Lines, Inc., Des Moines Transportation, Knaus Truck Lines, Motor Cargo, Inc., and Iowa-Nebraska. It owns eight pickup and delivery trucks and certain other equipment. These carriers render service at Iowa City as follows: Poole three times a day from Twin Cities, Tri-Cities, and Muscatine with overnight service from Minneapolis, next day from Chicago, same evening from Tri-Cities; Des Moines Transportation twice a day from Omaha and Chicago; Knaus about four times a week; Motor Cargo approximately three times a week, McCoy four times a week with shipments mostly from eastern points weighing less than 5,000 pounds each; Watson Bros., three times a day from Kansas City, St. Louis, Omaha, and the Twin Cities; and Iowa-Nebraska three times a week from Omaha and Chicago. Iowa City is also served by five other road-

haul carriers who use the facilities of two other local cartage operators. The shipments delivered to his dock by these carriers are predominately less than 5,000 pounds each. Service has been rendered to five of the shippers who testified in support of the application and there have been no complaints.

Gateway Transportation Co., owns 700 units of over-the-road equipment and operates between Minneapolis, Chicago, St. Louis, and Des Moines and serves Des Moines, Altoona, Colfax, Newton, Grinnell, and Iowa City on U. S. Highway 6. It established a terminal at Des Moines on February 1, 1952, and employed a drayman at Newton about May 1, 1952. It claims to be one of the largest peddle operators in the midwest area. It has daily operations between St. Louis and Des Moines, and between Des Moines and Milwaukee, but its equipment is not being utilized to capacity. It serves Newton from Des Moines at least three times a week. It has interchanged with Motor Transit for a number of years.

Roberts Transfer of Audubon owns ten units of power equipment and five trailers. It operates between Des Moines and Omaha in the transportation of general commodities over a designated route north of U. S. Highway 6 serving, insofar as here pertinent, the terminal points and Guthrie Center, Audubon, Exira, Hamlin, Avoca, Minden, Neola, Underwood, Council Bluffs, and Oakland. It has served six of the firms supporting the application, without any material complaints, through interchange with connecting carriers at Des Moines. Since sometime in October, 1951, it has had an arrangement with Motor Transit to handle some of the latter's traffic in Motor Transit trailers from Des Moines to Omaha, and to some of its Iowa stations, which Motor Transit is prohibited from transporting on account of the key-point restrictions. This traffic aggregates 150,000 pounds a month. If this carrier does not continue to enjoy this traffic and other connecting line traffic it would not be able to operate at a profit, according to the witness.

Discussion

The Motor Carrier Act, 1935, was approved August 12, 1935, and therein Congress declared its policy to be as follows:

> * * * to regulate transportation by motor carriers in such manner as to recognize and preserve the inherent advantages of, and foster sound economic conditions [fol. 46] in such transportation and among such carriers in the public interest; promote adequate, economical, and efficient service by motor carriers, * * *, improve the relations between, and coordinate transportation by the regulation of, motor carriers and other carriers; develop and preserve a highway transportation system properly adapted to the needs of the commerce of the United States and of the national defense; * * *.

The declaration of policy of Congress in the Transportation Act of 1940, approved September 18, 1940, is worded somewhat differently, but its import is substantially the same as that contained in the foregoing quotation.

Section 213(a)(1) of the Motor Carrier Act permitted a railroad to acquire a motor carrier, provided the Commission finds that the acquisition will promote the public interest by enabling the railroad to "use service by motor vehicle to public advantage in its operations", without undue restraint of competition. This section was repealed by the Transportation Act of 1940. The substance thereof was carried into Section 5 of the Interstate Commerce Act.

Early in the regulation of the motor carrier industry, the Commission, division 5, in *Pennsylvania Truck Lines, Inc.—Control—Barker*, 1 M.C.C. 101, 111, decided October 8, 1936, said:

> * * * we are not convinced that the way to maintain for the future healthful competition between rail and truck service is to give the railroads free opportunity to go into the kind of truck service which is strictly competitive with, rather than auxiliary to, their rail operations. The language of section 213, * * *, is evidence that Congress was not convinced that this should be done.

These views ripened into a policy in *Kansas City S. Transport Co., Inc., Com. Car. Application*, 10 M.C.C. 221, 240, decided November 12, 1938, which was prior to the acquisition by Motor Transit of the White Line and Fred-

erickson Line rights. Therein Division 5 imposed five conditions or restrictions upon the operating authority granted to a motor carrier subsidiary of two affiliated railways, which in most respects were substantially the same as the conditions and restrictions ultimately imposed and contained in the certificate issued to Motor Transit on September 11, 1951. After that decision, practically all grants of operating authority to motor carrier subsidiaries of railroads were made subject to like conditions and restrictions or modifications thereof required by the particular circumstances, except in a few instances, such as that here under consideration insofar as the White Line rights are concerned, the certificates contained no provisions limiting the service to that which is auxiliary to, or supplemental of, train service. The approval of the purchase of the White Line rights and the original certificate covering these rights, as before indicated, were specifically made subject to the condition or reserved right of the Commission later to impose such restrictions which might be found necessary to insure that the service would be limited to that which is auxiliary to, or supplemental of, train service of the Rock Island.

The main purpose for the policy of imposing the five above-quoted restrictions, or modifications thereof, was to prevent the railroads from acquiring motor operations through affiliates and using them in such a manner as to unduly restrain competition of independently operated motor carriers. This policy was and is sound and should be relaxed only where the circumstances clearly establish [fol. 47] (1) that the grant of authority has not resulted and probably will not result in the undue restraint of competition, and (2) that the public interest requires the proposed operation, which the authorized independent motor carriers have not furnished, except where it suited their convenience.

Motor Transit operated the White Line rights in Iowa under claimed "grandfather" rights from April, 1938, to December 3, 1941, and under a certificate from the latter date to February 5, 1945, that contained only the reserved right of the Commission to impose in the future such conditions that may be necessary to insure that the service shall be auxiliary to, or supplemental of, train service.

From February 5, 1945, to the present, Motor Transit has continued the operation by reason of pending litigation before the Commission or the Courts, or under temporary authority originally issued August 30, 1951, later modified, and subsequently extended to the date of the disposition of this proceeding. Although the Commission's policy of imposing the quoted restrictions established about three years prior to the issuance of a certificate to Motor Transit, the certificate of that carrier did not restrict the operation of the White Line rights in any manner. Thus, Motor Transit operated under such rights for a period of about seven years without any complaint that its operation was unduly restraining competition or indication that the Commission contemplated exercising the said reserved rights. After the Commission, on its own motion, reopened No. MC–29130 and the two related cases for reconsideration, and imposed the above-described five restrictions and conditions, the proceedings were reopened for further hearing upon petition of Motor Transit for reconsideration, oral argument, and withdrawal of the report on reconsideration. The attorneys representing Motor Transit at that time did not recognize the jurisdiction of the Commission to change or modify the orders authorizing acquisition of Motor Transit's certificates and they entered a special appearance on applicant's behalf solely for the purpose of filing the petition. At the subsequent further hearing a like appearance was entered for the sole purpose of contesting the jurisdiction of the Commission. Consequently there was no new or additional evidence before the Commission and as a result thereof the only issue was the question whether the reasoning of the prior report on reconsideration and the conclusions reached therein were sound in the face of the criticisms thereof contained in Motor Transit's petition. In the circumstances the Commission had no alternative but to impose the restrictions and conditions established in accordance with the policy enunciated in *Kansas City S. Transport Co., Inc., Com. Car. Application, supra.* This action was considered by the United States District Court for the Northern District of Illinois in a suit initiated by Motor Transit. That Court set aside and permanently enjoined enforcement of the Commission's order. This deci-

sion sustained Motor Transit's position. On appeal, however, the United States Supreme Court reversed the decision of the District Court and thereby sustained the views of the Commission. Thereafter, Motor Transit changed counsel with respect to this matter and he advised Motor Transit to seek limited temporary authority and to file an application under section 207 of the act for permanent authority. Thus, after the passage of approximately four years, Motor Transit concluded to do substantially what it had an opportunity to do in October, 1947, namely to introduce additional evidence in the reopened proceedings.

The applicant is the only carrier that for a considerable number of years has maintained daily (generally at least 5 days a week) scheduled peddle operations over the entire White Line and Frederickson Line routes regardless of the volume of traffic available for movement in such operation. Opposing motor carriers with appropriate authority have not provided such a service, except with respect to selected small segments of the routes, principally immediately east [fol. 48] of Des Moines. These carriers prior to August 30, 1951, delivered less-than-truckload freight to Motor Transit for movement to destinations they are authorized to serve. Some of this freight consisted of low-rated articles which such carriers deemed unprofitable to handle. These carriers in many instances refused to accept less-than-truckload shipments from their motor carrier connections for movement to a destination embraced in their operating authority. As a result thereof, several of these connecting carriers have had to rely upon Motor Transit to accept and make delivery of such shipments, even in cases where the delivering carrier was designated by the shipper. These experiences have convinced some of the connecting carriers that the unrestricted services of Motor Transit should continue to be available to them so that they may have a carrier that is always willing and able to accept interchange shipments destined to points on the White Line and Frederickson Line routes. One motor carrier that possesses rights on U. S. Highway 6 between Davenport and Des Moines, elects to give all its less-than-truckload freight to Motor Transit for delivery at such points, because it is not profitable for it to provide this service.

Applicant adduced testimony of a great number of public witnesses from practically every point served by Motor Transit on the routes directly involved here and also some located at certain points on its other routes that would be affected by the restrictions and conditions imposed September 11, 1951. The witnesses located at points in Iowa have used the services of Motor Transit over a period of many years and have to a considerable extent built their businesses on that service, particularly with respect to less-than-truckload shipments. With that service available, they do not have to maintain large inventories because they can order from the manufacturer or wholesaler at the supply points, such as Chicago, Minneapolis-St. Paul, Omaha, Kansas City, or Moline, early one day and be reasonably certain of delivery the next day in some instances, and in others not later than the second day. Some of them stressed their need for this service in obtaining expedited movement of repair parts, including those for farm machinery. In general, all of these witnesses, both those directly and indirectly affected, are apprehensive that if the Commission ultimately requires Motor Transit to confine its operations to the transportation of rail-billed freight their businesses will be adversely affected, as indeed some of them already have been by the weight limitations imposed in the temporary authorities. Some of the witnesses have not been able to obtain reasonably prompt pickups and delivery of shipments by carriers other than Motor Transit. A few of them could get along without the service of Motor Transit; but they would use it in preference to the service of any other authorized carrier. The great majority of these witnesses support this application because they have received satisfactory service from Motor Transit for a long time and they are not convinced that any other motor carrier will or can render the type of complete service respecting transportation, claim adjustments, rate and routing information, and tracing of shipment, that they have become accustomed to. Motor Transit is able to provide such complete service because it maintains freight agents at many points on its routes and the other motor carriers have them located at some of the larger points only.

Of the opposing motor carriers Iowa-Nebraska, Bos, and Des Moines Transportation are the only ones with inter-

state authority to serve all points or a substantial number of designated points on the routes directly involved in this proceeding. Bos has the authority to provide peddle service at all points on U. S. Highway 6 in Iowa. It has been providing such service approximately three times a week from Des Moines to Grinnell and return, and from Des Moines to Anita and return. A few other points on the [fol. 49] White Line route are served by over-the-road equipment, through cartage companies, or on a call and demand basis. These services are not comparable to the peddle services rendered by Motor Transit. Des Moines Transportation possesses interstate authority to serve only ten intermediate points on U. S. Highway 6 between the Mississippi River and Omaha. Daily peddle service is provided at six of the ten points. These six points are located east of Des Moines. This carrier's authority is insufficient to allow it to replace the interstate service heretofore rendered or presently being rendered by Motor Transit. Recognizing this it says that if necessary it will seek additional authority. Certain other opposing carriers hold authority to serve a few of the points on the routes directly and indirectly involved. There is no serious contention that either Bos or Des Moines Transportation are in a position to supplant Motor Transit operations as rendered prior to August 30, 1951.

Iowa-Nebraska is the carrier that the opposition advances as being in a position to take over the interstate traffic moving to and from points on the White Line and Frederickson Line routes which Motor Transit would have to relinquish under the conditions and restrictions imposed September 11, 1951. This carrier possesses the required interstate authority to render such service, but over the years it has not been providing any substantial peddle service on these routes. This no doubt was attributable to the small amount of this kind of traffic available to this carrier and to some extent probably by the fact that a large part of its business is the transportation of dairy products eastbound to Chicago, Philadelphia, New York City, and Boston. In February, 1952, it inaugurated certain peddle operations and together with the other opposing line-haul motor carriers and certain other motor carriers discon-

tinued, after August 30, 1951, the transfer of less-than-truckload traffic to Motor Transit for delivery to points on its lines also served by one or more of the opposing carriers, for the very obvious purpose of placing themselves in a position at the hearing on this application to show that they are endeavoring to provide services that can be expanded later to supplant those heretofore and presently provided by Motor Transit on interstate motor-billed freight. Iowa-Nebraska does not contemplate inaugurating daily scheduled peddle operations to take the place of each such operation conducted by Motor Transit, but says that it will provide this type of service as demanded by the volume of traffic. This clearly is not the kind of service that the supporting witnesses have had available in the past and their testimony demonstrates that they will not be satisfied with less in the future. The opposing motor carriers did not present one public witness to testify as the adequacy of the services being rendered by them.

Applicant's operations have been conducted in the same manner as other motor carriers operating in the same area. It has participated in the conferences of such carriers and is a party to their agency tariffs and in general throughout the years has worked for the development and betterment of the industry as a whole without regard to its being a subsidiary of a railroad. As hereinbefore indicated, the less-than-carload traffic moving by railroad over a recent five year period has consistently declined. During a comparable period the volume of traffic handled by a group of nine motor carriers serving the midwest area increased substantially. Applicant's tonnage also increased, but not to the extent of its competitors represented by this group of carriers. Thus the operations of applicant have not unduly restrained competition, and there is no evidence that its proposed operations would produce such a result.

[fol. 50] The opposing motor carriers take the position that Motor Transit's operations should be restricted, in accordance with the Commission's usual policy in this type of proceeding, to the transportation of rail-billed freight only. They indirectly imply that Motor Transit could handle freight on this type of billing just as expeditiously as that moving on motor-carrier billing. Theoretically this should be true, but in actual practice the motor-billed

freight is handled with greater dispatch and this is the reason that many of the public witnesses supporting the applicant have refused to deliver their shipments to Rock Island for billing even through the line-haul transportation thereof is performed entirely by Motor Transit. The reluctance of the shippers to use this kind of service is due to the fact that it requires longer in transit. For example, a shipment moving on rail billing from the Twin Cities to Marengo is picked up by the cartage company employed for that purpose by Rock Island and delivered to the Minneapolis or St. Paul rail terminal, worked, billed, and in one or two days turned over to Motor Transit for movement to destination. This shipment would required from two to four days more in transit than would be necessary if it moved by Motor Transit on motor billing. The situation in the reverse direction would be substantially similar: Motor-billed shipments from Chicago are picked up by Motor Transit and moved out in road-haul equipment the same night as contrasted with rail-billed shipments which are picked up by a cartage company for Rock Island and moved to Burr Oak, 15 miles, worked, billed, and returned to Chicago for transfer to Motor Transit for transportation to destination, or if it is necessary to move these shipments west from Burr Oak in box cars owing to the key point restrictions they would not reach Davenport for two or three days and sometimes longer. Similar delays occur on shipments in box cars to Des Moines. The delays in handling rail-billed shipments from Chicago are greated than from the Twin Cities. Rail-billed freight is delayed at points in Iowa on account of the method of handling these shipments before they are transferred to Motor Transit for movement. Perhaps these delays are unavoidable, but it seems that something might be done by Rock Island to eliminate or reduce the time of rail-billed shipments in transit. Another thing that shippers do not like about using rail billing is that Motor Transit cannot interchange shipments moving on such billing with its motor carrier connections, because Rock Island is not a party to the motor carrier tariffs. Its non-articipation in these tariffs is due to the policy of the motor carriers refusing to establish joint rates with railroads. This is a matter that the motor carriers could do something about.

The evidence abundently establishes that public necessity and convenience require the proposed less-than-truckload peddle operations. In addition to the testimony of the many public witnesses regarding their need for such service, there must be taken into consideration that not one of the opposing motor carriers having the requisite authority has established or offered to establish scheduled peddle operations to replace each such operation conducted by Motor Transit prior to August 30, 1951, and by refraining from doing so they no doubt realize that such peddle operations could not be profitable operated with interstate traffic only. The peddle service provided by Motor Transit has been, and to a limited extent, due to the weight limitation, is, based on interstate, intrastate, and rail-b-lled traffic. With these three kinds of traffic available it is patent that Motor Transit could provide better service to the public than the motor carriers who claim that they can take over Motor Transit's interstate motor-billed business. These carriers hold no intrastate rights on the considered White Line and Frederickson Line routes and cannot secure such rights because it is the policy of the Iowa State Commerce Commission to grant such rights to only one carrier on a given route, Motor Transit possesses such rights on these routes.

[fol. 51] There is some evidence of a public need for the proposed truckload services of applicant, but it is not as convincing as that with respect to the peddle operations, and this is understandable because the other motor carriers operating in the area have usually provided satisfactory service on truckload shipments. There is evidence that they have refused to accept truckloads of low-rated commodities. However, it is sufficient to warrant a grant of authority in this respect. This "the cream of the traffic", which to some extent has been handled by Motor Transit for many years without seriously affecting the expansion of its competitors operations, should not be handed over to such competitors and Motor Transit expected to provide the expensive peddle services.

Acceptance of the opposing motor carriers position would have the following results. They would be left to provide the peddle services on interstate motor-billed traffic, which alone will not justify the type of services heretofore

rendered by Motor Transit, and all such traffic in truckloads. Motor Transit would be left with intrastate and rail-billed traffic, which will not warrant continuance of the operations conducted by it prior to August 30, 1951. The net result is clear that the public would be left holding the bag, in that, it would have two or more carriers to provide the services and collectively they would be unable to render the quantity and quality of services maintained prior to that date by Motor Transit, and in addition a substantial number of employees of Motor Transit would be dismissed. Many of them would lose important rights resulting from years of service with Motor Transit.

The application requests, among other things, authority over designated highways between Chicago and Omaha. Applicant presently holds authority between Chicago and Silvis. Consequently, there is no reason for including this segment in the findings herein. The findings will include only the segment of this route between Silvis and Omaha, which authority may be tacked with the present authority between Chicago and Silvis.

The commodity description used in the findings hereof authorizes the transportation of dangerous explosives, except nitroglycerine. This description in its entirety is the same as that contained in the certificate issued on September 11, 1951.

The authority herein recommended supersedes and cancels all authority heretofore granted between the same points, more particularly described on "Sheets 2 and 15" of the certificate issued to applicant on September 11, 1951.

The findings hereinafter made are not to be construed as an abrogation of the policy established in *Kansas City S. Transport Co., Inc., Com. Car. Application, supra.* They represent an exception to that policy justified by the evidence in this proceeding. In other words, such findings do not establish a precedent. Each case of this character must be determined upon the facts and circumstances disclosed by the evidence.

Findings

The examiner finds that the present and future public convenience and necessity require operation by applicant,

in interstate or foreign commerce, as a common carrier by motor vehicle, of general commodities, except those of unusual value, nitroglycerine, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, (1) from Silvis, Ill., to Omaha, Nebr., over [fol. 52] Illinois Highway 92 to its junction with U. S. Highway 6, and thence over U. S. Highway 6 to Omaha, and return over same route, serving the intermediate points of East Moline, Moline and Rock Island, Ill., and Bettendorf, Davenport, Durant, Wilton, Atalissa, West Liberty, Iowa City, Coralville, Tiffin, Homestead, Marengo, Ladora, Victor, Brooklyn, Grinnell. Newton, Colfax, Altoona, Des Moines, Dexter, Stuart, Menlo, Casey, Adair, Anita, Wiota, Atlantic, Oakland, and Council Bluffs, Iowa, and the off-route points of Wolcott, Muscantine, Stockton, Moscow, Oxford, South Amana, Malcom, Kellogg, and Mitchellville, Iowa, (2) from Iowa City, Iowa, to Cedar Rapids, Iowa, over U. S. Highway 218 and return over same route, serving no intermediate points, and (3) from Harlan, Iowa, to Omaha, Nebr., over Iowa Highway 64 to Council Bluffs, and thence over U. S. Highway 6 to Omaha, and return over same route, serving the intermediate points of Corley, Minden, Neola, Underwood, and Weston, Iowa, and the off-route point of Shelby, Iowa, and (4) from Avoca, Iowa, to Atlantic, Iowa, (a) over U. S. Highway 59 to Oakland, and thence over U. S. Highway 6 to Atlantic, and (b) over Iowa Highway 83 to Atlantic, and return over either route, serving the intermediate points of Hancock, Walnut, and Marne, Iowa; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; that a certificate authorizing such operations should be granted; and that the application in all other respects should be denied.

It is recommended that the appended order be entered.

By T. K. Carpenter, Examiner.
(Signature) T. K. Carpenter.

[fol. 53] APPENDIX A

WHITE LINE RIGHTS

POINTS ON U. S. HIGHWAY 6, EXCEPT AS NOTED, FROM SILVIS, ILL. TO OMAHA, NEBR., AND OFF-ROUTE POINTS

Points Illinois	*No. of Witnesses Supporting Application*
%Silvis	
%East Moline	1
%Moline	3
Rock Island	2
Iowa Points	
Bettendorf	
Davenport	1
#Walcott	7
#Muscatine	2
#Stockton	2
Durant	2
Wilton	2
#Moscow	
Atalissa	1
West Liberty	2
Iowa City	6
Coralville	1
Tiffin	1
#Oxford	3
Homestead	1
#South Amana	1
Marengo	3
Ladora	1
Victor	4
Brooklyn	4
#Malcom	2
Grinnell	7
#Kellogg	2
Newton	3
Colfax	3
#Mitchellville	2
Altoona	2
Des Moines	6
(Waukee)	Not a Station on Rock Island
(Adel)	Not a Station on Rock Island
(Redfield)	Not a Station on Rock Island
Dexter	1
Stuart	1
Menlo	1
Casey	2
Adair	2
Anita	2
Wiota	1
Atlantic	5
Oakland	2
Council Bluffs	1
Nebraska Point	
Omaha	3

% On Illinois Highway 92
Off-Route Point
A few witnesses testified with respect to more than one point.

[fol. 54] APPENDIX B

WHITE LINE RIGHTS

POINTS ON U. S. HIGHWAY 218

Iowa Points	*No. of Witnesses*
Iowa City	See Appendix A
(North Liberty)	No Service
(Shueyville)	No Service
Cedar Rapids	2

FREDERICKSON LINE RIGHTS

Iowa Points	*No. of Witnesses*
Iowa Highway 64	
Council Bluffs	See Appendix A
Weston	1
Underwood	1
Minden	1
Neola	2
#Shelby	
Avoca	
Corley	2
Harlan	
Iowa Highway 83	
Avoca	1
Walnut	1
Marne	See Appendix A
Atlantic	
U. S. Highway 59	
Avoca	1
Hancock	See Appendix A
Oakland	

Off-Route Point

[fol. 55] Recommended by T. K. Carpenter, Examiner.
(Signature) T. K. Carpenter.

ORDER

At a Session of the INTERSTATE COMMERCE COMMISSION, Division 5, held at its office in Washington, D. C., on the day of , A. D., 1953.

No. MC–29130 (Sub-No. 70)

THE ROCK ISLAND MOTOR TRANSIT COMPANY COMMON CARRIER APPLICATION

Investigation of the matters and things involved in this proceeding having been made, said application upon due notice having been heard by the examiner, who has made and filed a report herein containing his findings of fact and conclusions thereon, which report is hereby made a part hereof, and said proceeding having been duly submitted:

It is ordered, That upon full compliance with the requirements of sections 215 and 217 of the Interstate Commerce Act, and with the rules and regulations thereunder, a certificate be issued to applicant authorizing operations, in interstate or foreign commerce, as a common carrier by motor vehicle, of the commodities, and in the manner, described in the findings of said report, and that the application in all other respects be, and it is hereby, denied;

It is further ordered, That this order shall be effective on , 1953.

By the Commission, division 5.
George W. Laird, Acting Secretary.

[fol. 57] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Civil Action No. 3171-55

AMERICAN TRUCKING ASSOCIATIONS, INC., 1424 Sixteenth Street, N. W. Washington 6, D. C.; REGULAR COMMON CARRIER CONFERENCE, 1424 Sixteenth Street, N. W. Washington 6, D. C.; IOWA-NEBRASKA TRANSPORTATION COMPANY, Avoca, Ill.; DES MOINES TRANSPORTATION COMPANY, INC., 201 S. E. 6th St., Des Moines, Iowa; BRUCE MOTOR FREIGHT, INC., 2011 Eastern Blvd., Des Moines, Iowa; WESTERN TRANSPORTATION COMPANY, 1300 W. 25th St., Chicago, Ill.; McCOY TRUCK LINES, INC., 1525 Grandview Ave., Waterloo, Iowa; BRADY TRANSFER AND STORAGE COMPANY, 443 S. W. 6th St., Des Moines, Iowa; MOTOR CARGO, INC., 700 Carroll St., Akron, O.; GATEWAY TRANSPORTATION COMPANY, 2130 South Ave., LaCrosse, Wis.; BOS TRUCK LINES, INC., 408 S. 12th Ave., Marshalltown, Iowa, Plaintiffs

v.

UNITED STATES OF AMERICA and INTERSTATE COMMERCE COMMISSION, Washington 25, D. C., Defendants

COMPLAINT—Filed July 20, 1955

Come now American Trucking Associations, Inc., its Regular Common Carrier Conference Iowa-Nebraska Transportation Company, Des Moines Transportation Company, Inc., Bruce Motor Freight, Inc., Western Transportation Company, McCoy Truck Lines, Inc., Brady Transfer and Storage Company, Motor Cargo, Inc., Gateway Transportation Company, and Bos Truck Lines, Inc., plaintiffs herein, and for their cause of action state:

I

Jurisdictional Statement

This is an action to suspend, enjoin, annul and set aside the report and order of the defendant, Interstate Commerce

Commission, in Docket No. MC-29130 (Sub. No. 70), *The Rock Island Motor Transit Company Common Carrier Application*, dated November 22, 1954, and reported at 63 M.C.C. 91, a copy of which is attached hereto and made a part hereof as Appendix A. This action arises under the provisions of Section 205(g) of the Interstate Commerce Act, 49 U.S.C. §305(g), Section 10 of the Administrative Procedure Act, 5 U.S.C. §1009, and Sections 1336, 1398, 2284, and 2321 to 2325 of the Judicial Code 28 U.S.C. §§1336, 1398, 2284 and 2321 to 2325. The United States of America is named as a defendant pursuant to Section 2322 of the Judicial Code, 28 U.S.C. §2322.

II

Parties

American Trucking Associations, Inc., is the national organization of the trucking industry, representing all types of motor carriers of property. Organized and existing as a non-profit corporation under the laws of the District of Columbia, American Trucking Associations, Inc., maintains offices at 1424 Sixteenth Street, Northwest, Washington 6, D. C.

The Regular Common Carrier Conference of American Trucking Associations, Inc., is an unincorporated association of regular route motor common carriers engaged in the interstate transportation of general commodities. The Conference maintains offices at 1424 Sixteenth St., Northwest, Washington 6, D. C.

Iowa-Nebraska Transportation Company, a corporation, doing business at Avoca, Iowa, is a common carrier by motor vehicle engaged in the transportation of general commodities in interstate commerce pursuant to authority granted by the defendant, Interstate Commerce Commis-
[fol. 58] sion.

Des Moines Transportation Company, Inc., a corporation, having its principal place of business at Des Moines, Iowa, is a common carrier by motor vehicle engaged in the transportation of general commodities in interstate commerce pursuant to authority granted by the defendant, Interstate Commerce Commission.

Bruce Motor Freight, Inc., a corporation, having its principal place of business at Des Moines, Iowa, is a common carrier by motor vehicle engaged in the transportation of general commodities in interstate commerce pursuant to authority granted by the defendant, Interstate Commerce Commission.

Western Transportation Company, having its principal place of business at Chicago, Illinois, is a common carrier by motor vehicle engaged in the transportation of general commodities in interstate commerce pursuant to authority granted by the defendant, Interstate Commerce Commission.

McCoy Truck Lines, Inc., a corporation, having its principal place of business at Waterloo, Iowa, is a common carrier by motor vehicle engaged in the transportation of general commodities in interstate commerce pursuant to authority granted by the defendant, Interstate Commerce Commission.

Brady Transfer and Storage Company, having its principal place of business at Des Moines, Iowa, is a common carrier by motor vehicle engaged in the transportation of general commodities in interstate commerce pursuant to authority granted by the defendant, Interstate Commerce Commission.

Motor Cargo, Inc., a corporation, having its principal place of business at Akron, Ohio, is a common carrier by motor vehicle engaged in the transportation of general commodities in interstate commerce pursuant to authority granted by the defendant, Interstate Commerce Commission.

Gateway Transportation Company, having its principal place of business at LaCrosse, Wisconsin, is a common carrier by motor vehicle engaged in the transportation of general commodities in interstate commerce pursuant to authority granted by the defendant, Interstate Commerce Commission.

Bos Truck Lines, Inc., a corporation, having its principal place of business at Marshalltown, Iowa, is a common carrier by motor vehicle engaged in the transportation of general commodities in interstate commerce pursuant to authority granted by the defendant, Interstate Commerce Commission.

Said plaintiffs were intervenors in opposition in the proceeding before the defendant, Interstate Commerce Commission, in Docket No. MC–29130 (Sub. No. 70), *The Rock Island Motor Transit Company Common Carrier Application*, and the above-named motor carrier plaintiffs as well as the motor-carrier members of plaintiffs American Trucking Associations, Inc., and its Regular Common Carrier Conference, which constitute a class too numerous to name individually and for which they customarily appear in proceedings before the Interstate Commerce Commis-
[fol. 59] sion and the courts, will be adversely affected and sustain continuing and irreparable injuries unless the Commission's report and order of November 22, 1954, (Appendix A) is suspended, enjoined, annulled and set aside.

III

Statement of the Case

By application filed under Section 207 of the Interstate Commerce Act, 49 U.S.C. §307, the Chicago, Rock Island and Pacific Railway Company, through its wholly-owned motor-carrier subsidiary, The Rock Island Motor Transit Company, sought authority from the defendant, Interstate Commerce Commission, to engage in all-out trucking operations in competition with its train service and the service of independent motor carriers between Chicago, Illinois, and Omaha, Nebraska, including service to and from the intermediate points of Moline, Illinois, Iowa City, Iowa, and Cedar Rapids, Iowa, among others, all of which points The Rock Island Motor Transit Company was then authorized to serve in trucking supplementary to the train service of the parent railroad company. The application was docketed as MC–29130 (Sub. No. 70), *The Rock Island Motor Transit Company Common Carrier Application*, and hearings on the application were held on March 18, through April 21, 1952, and on May 20, 21 and 22, 1952, at Des Moines, Iowa. The examiner's recommended report and order was served on April 21, 1953. After the filing of exceptions and replies thereto oral argument was had before the Commission on March 8, 1954. On November 22, 1954, the Commission rendered its report and order (Ap-

pendix A). In substance it grants the application for completely unrestricted trucking, subject only to the conditions that there may be attached from time to time to the privileges granted such reasonable terms, conditions and limitations as the public convenience and necessity may require, and that the contractual arrangements between applicant and the parent company be subject to revision to assure their being fair and equitable to the parties.

Petition of the plaintiffs herein dated February 16, 1955, for reconsideration of said report and order of the Interstate Commerce Commission having been denied by the Commission by order of July 6, 1955, served July 14, 1955, a copy of which is attached and marked Appendix B, plaintiffs have exhausted their administrative remedy before the Commission, and certificate of public convenience and necessity authorized by the assailed report and order will be issued by the Commission unless the report and order is suspended, enjoined, annulled and set aside and the issue of the certificate enjoined by this Court.

IV

Allegations of Error

The defendant, Interstate Commerce Commission in making and issuing the report and order complained of (Appendix A) and in denying reconsideration thereof by order of July 6, 1955 (Appendix B), exceeded its powers [fol. 60] and authority delegated under law and erred as a matter of fact and as a matter of law in the following particulars:

(a) The finding at 63 M.C.C. 108 that the present and future public convenience and necessity require unrestricted operation by The Rock Island Motor Transit Company, in interstate or foreign commerce, as a common carrier by motor vehicle, as more fully described in the report, is unsupported by and contrary to the evidence of record and is contrary to the law, to wit, the National Transportation Policy and Sections 5(2)-(b) and 207 of the Interstate Commerce Act, 49 U.S.C.A. preceding §1, §5(2)(b) and §307.

(b) The finding at 63 M.C.C. 96 that the shippers need the unrestricted service of The Rock Island Motor Transit Company, such as they enjoyed prior to August 30, 1951, is unsupported by and contrary to the evidence of record.

(c) The finding at 63 M.C.C. 96 that there are no other transportation facilities available that can replace the unrestricted service of The Rock Island Motor Transit Company, such as it rendered prior to August 30, 1951, is unsupported by and contrary to the evidence of record.

(d) The finding at 63 M.C.C. 96 that the existing weight limitation of 5,000 pounds per shipment is burdensome is unsupported by and contrary to the evidence of record.

(e) The finding at 63 M.C.C. 96 that the imposition of the auxiliary and supplemental to rail service restrictions would adversely affect The Rock Island Motor Transit Company is unsupported by and contrary to the evidence of record.

(f) The finding at 63 M.C.C. 96 that 11 points would have no motor peddle service if the application of The Rock Island Motor Transit Company were not granted is unsupported by and contrary to the evidence of record.

(g) The finding at 63 M.C.C. 107 that the public convenience and necessity require the less-than-truckload operations of The Rock Island Motor Transit Company is unsupported by and contrary to the evidence of record.

(h) The finding at 63 M.C.C. 107 that there is a need for the truckload service of The Rock Island Motor Transit Company is unsupported by and contrary to the evidence of record.

[fol. 61] (i) The finding at 63 M.C.C. 100 that the National Transportation Policy and Sections 5(2)(b) and 207 of the Interstate Commerce Act do not proscribe the authority of the Interstate Commerce Commission to grant The Rock Island Motor Transit Company an unrestricted certificate is contrary to the law as expressed therein.

(j) The finding at 63 M.C.C. 100 that the Interstate Commerce Commission may issue certificates of public convenience and necessity to motor carrier affiliates of railroads, with or without restrictions in its discretion, is contrary to the law as expressed in the National Transportation Policy and Sections 5(2)(b) and 207 of the Interstate Commerce Act.

(k) The finding at 63 M.C.C. 108 that the Commission may grant unrestricted motor-carrier authority to The Rock Island Motor Transit Company without departing from the Commission's past policy is contrary to the law as expressed in the decisions of the Commission interpreting the National Transportation Policy and Sections 5(2)(b) and 207 of the Interstate Commerce Act.

(l) The finding at 63 M.C.C. 100 that the Commission has in the past issued to railroad subsidiaries and now may issue to The Rock Island Motor Transit Company certificates of public convenience and necessity with only the "reservation to impose in the future any limitations, restrictions, or modifications that may appear necessary" is contrary to the law as expressed in the decisions of the Commission interpreting the National Transportation Policy and Sections 5(2)(b) and 207 of the Interstate Commerce Act.

(m) The finding at 63 M.C.C. 102 that the Commission need not impose auxiliary and supplemental restrictions upon grants of motor-carrier authority to railroad subsidiaries "where the circumstances clearly establish (1) that the grant of authority has not resulted and probably will not result in the undue restraint of competition, and (2) that the public interest requires the proposed operation, which the authorized independent motor carriers have not furnished, except where it suited their convenience" is contrary to the law as expressed in the provisions of the National Transportation Policy and Sections 5(2)(b) and 207 of the Interstate Commerce Act.

[fol. 62] (n) The report of the Commission fails to give proper effect to the provisions of Sections 208 and 212 of the Interstate Commerce Act and the National Transportation Policy.

(o) The report of the Commission fails to give proper effect to the Commission's policy opposing the common ownership or control of competing transportation media.

(p) The report of the Commission fails to give proper effect to the Commission's obligations under the provisions of Sections 204(a)(6) and 216(b) of the Interstate Commerce Act and the National Transportation Policy.

(q) The report of the Commission fails to give proper effect to the economic realities confronting the independent motor carriers striving to compete with the railroad-subsidized Rock Island Motor Transit Company.

(r) The report and order of the Commission for the foregoing and other reasons is unreasonable, arbitrary, capricious, discriminatory and in abuse of discretion.

V

Prayer for Relief

WHEREFORE, Plaintiffs respectfully pray:

(a) That in accordance with Section 2284(1) of Title 28 of the United States Code this Court immediately notify the Chief Judge of the United States Court of Appeals for the District of Columbia Circuit who shall designate two other judges, at least one of whom shall be a circuit judge, to serve as members of the court to hear and determine this action.

(b) That in accordance with Rule 4 of the Federal Rules of Civil Procedure this Court order process to issue against the defendant, United States of America, and thereafter upon not less than five days' notice to the Attorney General of the United States, to the United States Attorney for the District of Columbia and to the Interstate Commerce Commission, a hearing to be held; and an interlocutory injunction be issued staying and suspending the said order of the defendant, Interstate Commerce Commission, dated November 22, 1954 (Appendix A), and the order of July 6, 1955, denying reconsideration (Appendix B).

[fol. 63] (c) That in accordance with Section 2284(3) of Title 28 of the United States Code this Court issue a temporary restraining order, to remain in force until the hearing and determination of the full Court, to prevent the Interstate Commerce Commission from issuing the certificate of public convenience and necessity to The Rock Island Motor Transit Company as contemplated by the assailed report and order of November 22, 1954 (Appendix A).

(d) That upon final hearing of this action judgment be entered enjoining, annulling and setting aside the assailed report and order of November 22, 1954, of the Interstate Commerce Commission (Appendix A), and the order of July 6, 1955 (Appendix B).

(e) That the Court grant such further relief as it deems just and proper.

Respectfully submitted,

Protestant Motor Carriers

s/ Roland Rice, Eugene L. Cohn, Joseph E. Ludden, Stephen Robinson, Homer E. Bradshaw, Rex H. Fowler, Attorneys

American Trucking Associations, Inc.

s/ Peter T. Beardsley, s/ Fritz R. Kahn, James F. Pinkney, Harry E. Boot, Attorneys

Regular Common Carrier Conference

s/ Roland Rice, Robert J. McBride, Albert B. Rosenbaum, John C. Bradley, Attorneys

1111 E Street, N.W., Washington 6, D.C., July 20, 1955.

[fol. 64] APPENDIX A TO COMPLAINT

No. MC-29130 (SUB-NO. 70)

THE ROCK ISLAND MOTOR TRANSIT COMPANY
COMMON CARRIER APPLICATION

Submitted March 8, 1954. Decided November 22, 1954

Public convenience and necessity found to require operation by applicant as a common carrier by motor vehicle in interstate or foreign commerce, of general commodi-

ties, with exceptions, between certain points in Illinois, Iowa, and Nebraska, over regular routes, serving designated intermediate and off-route points, subject to conditions. Issuance of a certificate approved, and application in all other respects denied.

A. B. Howland and *J. H. Martin* for applicant.

D. C. Nolan, Henry A. Archambo, Ernest Porter, and *R. H. Heinecamp* for interveners in support of the application.

Albert B. Rosenbaum, Rex H. Fowler, Homer E. Bradshaw, Eugene L. Cohn, Bernard G. Colby, Edgar Watkins, William B. Adams, James F. Pinkney, Joseph E. Ludden, Stephen Robinson, Walter V. Huston, and *William A. Landau* for protestant and interveners in opposition.

Report of the Commission

By the Commission:

Exceptions to the order recommended by the examiner were filed by a protestant and nine motor-carrier interveners in opposition. Applicant and interveners in support of the application replied to the exceptions. The case was orally argued before us. Our conclusions differ slightly from those recommended.

By application filed October 26, 1951, as amended, The Rock Island Motor Transit Company, hereinafter called applicant or Motor Transit, of Chicago, Ill., seeks a certificate authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, of general commodities, except nitroglycerin, commodities of unusual value, household goods as defined in *Practices of Motor Common Carriers of Household Goods,* 17 M. C. C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, (1) between Chicago, Ill., and Omaha, Nebr., from Chicago over U. S. Highway 34 to junction of Illinois Highway 92, thence over Illinois Highway 92 to junction of U. S. Highway 6, and thence over U. S. Highway 6 to Omaha, (2) between Iowa City, Iowa, and Cedar Rapids, Iowa, from Iowa City over U. S. Highway 218 to Cedar Rapids, (3) between Harlan, Iowa, and Omaha, Nebr., from Harlan over Iowa Highway 64 to Council Bluffs,

[fol. 65] Iowa, and thence over U. S. Highway 6 to Omaha, (4) between Avoca, Iowa, and Atlantic, Iowa, (*a*) from Avoca over U. S. Highway 59 to junction U. S. Highway 6, and thence over U. S. Highway 6 to Atlantic, and (*b*) from Avoca over Iowa Highway 83 to Atlantic, and (5) return in each instance over the same routes, serving the intermediate points of East Moline, Silvis, Moline, and Rock Island, Ill., and Bettendorf, Davenport, Durant, Wilton Junction, Atalissa, West Liberty, Iowa City, Coralville, Tiffin, Homestead, Marengo, Ladora, Victor, Brooklyn, Grinnell, Newton, Colfax, Altoona, Des Moines, Dexter, Stuart, Menlo, Casey, Adair, Anita, Wiota, Atlantic, Oakland, Council Bluffs, Weston, Underwood, Minden, Neola, Corley, Walnut, Marne, and Hancock, Iowa, and the off-route points of Walcott, Muscatine, Stockton, Moscow, Oxford, South Amana, Malcom, Kellogg, Mitchellville, and Shelby, Iowa. The Regular Common Carrier Conference, of the American Trucking Associations, Inc., and 11 motor carriers oppose the granting of the application.

Applicant is a wholly owned subsidiary of the Chicago, Rock Island and Pacific Railroad Company, hereinafter called Rock Island. It conducts motor common carrier regular-route operations in Illinois, Indiana, Iowa, Nebraska, Minnesota, Missouri, Kansas, Texas, Tennessee, Arkansas, and Oklahoma, subject in certain instances to various restrictions affecting different route segments. This proceeding primarily relates to applicant's authorized routes within the State of Iowa (except those between Cedar Rapids and Decorah, between Muscatine and Kalona, and between Wellman and West Chester) and those extending beyond to Chicago, Ill., Omaha, Nebr., Minneapolis-St. Paul, Minn., and Kansas City, Mo.

The history of the transactions and circumstances leading to the instant proceeding and the evidence adduced herein are set forth in the examiner's report in much detail. On exceptions, protestant and interveners opposing the application challenge the examiner's findings of fact and conclusions drawn therefrom; however, in no instance has specific reference been made to the page or pages of the transcript upon which they rely to refute the examiner's findings. Although we may not agree in every instance

with the emphasis which the examiner has given certain of the evidence submitted in this proceeding, our review of the record indicates that basically his findings of fact are sound, and no useful purpose would be served by repeating them once again. Under these circumstances we adopt substantially the statement of issues and the evidence as reported by the examiner with such modifications and added discussion thereof as appear necessary and proper.

Prior to August 30, 1951, applicant operated over U. S. Highway 6 under a certificate, subject to the condition or reserved right of the Commission later to impose such re- [fol. 66] strictions which might be found necessary to insure that the service should be limited to that which is auxiliary to, or supplemental of, train service of Rock Island and shall not unduly restrain competition, and as to the remainder of the authority sought under an approved purchase without any provision for the issuance of a certificate containing such condition or reserved right. On September 11, 1951, it was issued a certificate specifying operations over the described routes, containing the following restrictions:

1. The service to be performed by The Rock Island Motor Transit Company shall be limited to service which is auxiliary to, or supplemental of, train service of The Chicago, Rock Island and Pacific Railway Company.

2. The Rock Island Motor Transit Company shall not render any service to, or from, or interchange traffic at any point not a station on the rail line of The Chicago, Rock Island and Pacific Railway Company.

3. No shipments shall be transported by The Rock Island Motor Transit Company between any of the following points, or through, or to, or from, more than one of said points: Omaha, Nebr., Des Moines, Iowa, and collectively Davenport and Bettendorf, Iowa, and Rock Island, Moline, and East Moline, Ill.

4. All contractual arrangements between The Rock Island Motor Transit Company and The Chicago, Rock Island and Pacific Railway Company shall be reported to us and shall be subject to revision, if and as we

find it to be necessary in order that such arrangements shall be fair and equitable to the parties.

5. Such further specific conditions as we, in the future, may find it necessary to impose in order to insure that the service shall be auxiliary to, or supplemental of, train service.

Our power to impose these restrictions pursuant to the reserved condition was affirmed by the United States Supreme Court in *United States* v. *Rock Island Motor Transit Co.*, 340 U. S. 419. However, Motor Transit in this proceeding seeks by the testimony of numerous witnesses to establish that its continued operation unencumbered by these restrictions is necessary in the public interest. The route over U. S. Highway 6 in Iowa is the heart of Motor Transit's operations in that State, and such restrictions not only affect that route but also a number of other routes which are not similarly restricted.

Prior to the issuance of the certificate dated September 11, 1951, containing the above-described 5 conditions, applicant was issued certain temporary authorities and pursuant thereto may transport general commodities, with exceptions, over the routes described in the application, subject to a maximum weight limitation of 5,000 pounds, and further subject to the restriction that no shipment may be transported between Chicago and Omaha, nor between any of the following points, or through, or to, or from, more than one of said points: Omaha, and collectively, Davenport, Bettendorf, Rock Island, Moline, and East Moline. This presently effective temporary authority ex-
[fol. 67] pires concurrently with the final decision in this proceeding, and applicant has been and is now operating pursuant to it, which is less restrictive in the conditions to which it is subject than those contained in applicant's certificate of September 11, 1951.

Applicant's balance sheet as of January 31, 1952, shows assets of $1,858,620, and liabilities of $1,758,620, excluding capital stock, but including $873,527 advances payable to Rock Island, $250,000 long-term bank loan, and $149,764 unappropriated surplus. As of October 26, 1951, applicant owned and operated 152 trucks, 228 tractors, 303 trailers, 4 service trucks, and 4 buses. It is fit and able,

financially and otherwise, properly to conduct the proposed operation.

Prior to discussing the arguments raised on exceptions and oral argument, a brief resume of the evidence for and against the granting of the application will be helpful. The Iowa State Commerce Commission supports the application. It is the view of that body that applicant is the only carrier that, for a number of years prior to September 1951, had been rendering an adequate and efficient service on less-than-truckload freight at the many small points on the considered routes and certain points on its authorized routes adjacent thereto, and the only carrier since that date that has been providing consistent service to the extent authorized under its temporary authorities. Because of the weight and "key point" limitations contained in the temporary authorities, the service rendered thereunder is not regarded as adequate. During the 2 years preceding the hearing in the spring of 1952, the trend of motor carriers operating in Iowa generally has been to refrain from rendering local service on small shipments. This State commission grants intrastate authority to only one motor carrier to serve points on a given route.

Chambers of commerce and other commercial organizations at Davenport, Omaha, Chicago, Des Moines, St. Joseph, Mo., Mason City, Muscatine, Ottumwa, Iowa City, Burlington, Cedar Rapids, and Atlantic, Iowa, and Minneapolis, Minn., and East Moline, Moline, and Rock Island, Ill., representing in excess of 2,300 members, ship various commodities in lots of less than 15,000 pounds and sometimes in truckloads to the destinations here involved. It is the view of their membership that rail service is too slow and that the unrestricted service proposed by applicant is essential to the proper conduct of their members' businesses as there is no other motor carrier maintaining the complete peddle service rendered by applicant prior to the imposition of the restrictions. Pool-car distribution is made from some of the described points.

Eight motor carriers have been and are interlining traffic with applicant, principally at Chicago and the Tri-Cities. Generally these carriers do not ordinarily experience any difficulty in interlining shipments destined to the larger

[fol. 68] points of population on U. S. Highway 6, such as Des Moines and Newton, but they are of the opinion that applicant must be in a position to serve these points and to handle overhead traffic in order to provide the required service; particularly the expensive peddle operations, at the smaller points to avoid sustaining a loss on the entire operation. Several of these carriers are members of the American Trucking Associations, Inc., which is opposing the application.

Thirty-eight shippers and receivers of a large variety of commodities located at Kansas City, Mo., East Chicago and Chicago, Ill., Beatrice and Omaha, Nebr., Minneapolis, Minn., and Clinton, Muscatine, Kalona, Wellman, Columbus Junction, Washington, Pella, Prairie City, Oskaloosa, Fairfield, Brayton, Exira, Hamlin, Audubon, Lewis, Griswold, Carson, and Treynor, Iowa, points served by Motor Transit but not on routes directly involved in this proceeding support the application for a variety of reasons. Some grounds given are: (1) restoration of applicant's unrestricted authority is considered essential to eliminate inconvenience and difficulties experienced since August 30, 1951, in the conduct of their businesses, (2) applicant is providing the only regular service available and the loss thereof would be injurious, (3) the loss of this service will result in delays and will place shippers at a competitive disadvantage, (4) curtailment or abandonment of Motor Transit service would mean a tremendous loss of business, (5) other carriers' services are not regular or dependable, and (6) many years of dependence upon applicant's service, and the effect the loss of such service would have on their business activities.

There are 45 points of service on the routes of White Line Freight Company, Incorporated, and White Line Trucking Company, applicant's predecessors, hereinafter collectively called the White Line route and 11 such points on the routes of J. H. Frederickson and D. H. Frederickson, doing business as J. H. Frederickson & Son, also applicant's predecessor, hereinafter called the Frederickson Line route, in addition to certain points that are on both routes.

One hundred and one public witnesses, both consignors and consignees, hereinafter collectively called shippers,

from points on the White Line route and 10 public witnesses of the same category from points on the Frederickson Line route testified in support of the application. These shippers were from every point on the White Line route, except Silvis, Bettendorf, and Moscow, and from every point on the Frederickson Line route, except Weston, Avoca, and Corley. They ship or receive a variety of commodities in less-than-truckload quantities, and some of them receive shipments in truckload lots. Their testimony relates principally to the former, which prior to August 30, 1951, was handled by applicant in peddle operations in a [fol. 69] very satisfactory manner, and since that date in the same manner to the extent that the weight limitations in the temporary authorities issued to applicant permit. Applicant's service on truckloads also has been satisfactory, but admittedly competing motor carriers generally provide prompt service on this type of traffic. In some instances, they have refused to accept truckload shipments of low-rated commodities. In one instance, applicant was the only carrier readily available with proper equipment to transport the commodity. In general the shippers' evidence is to the effect (1) that they had, prior to August 30, 1951, very efficient and dependable peddle service by applicant, which they need in the operation of their various businesses and which to a large extent have been built upon applicant's service, (2) that peddle shipments are not accepted by many motor carriers serving the larger points, (3) that owing to competition the service of applicant is vitally essential as there are no other transportation facilities available that can replace this service, (4) that experience has demonstrated that such service is superior to that provided by other motor carriers, (5) that curtailment of applicant's service would force some shippers to purchase and operate their own equipment, (6) that a few shippers would have to pick up shipments at points from 3 to 10 miles from their places of business, (7) that the existing weight limitation of 5,000 pounds per shipment is burdensome, (8) that imposition of the supplemental and auxiliary to rail service restriction would result in deterioration of the intrastate services rendered by applicant, (9) that certain opposing carriers' services have been unsatisfactory due to attempted night deliveries, delays,

erroneous rate information, and slow payment of claims, and (10) that 11 points on the White Line route would have no motor peddle service if this application is not granted and others would have no scheduled peddle service. Generally these supporters of the application desire a return to the service rendered by Motor Transit prior to the time that the five conditions, designed to insure that its service should be auxiliary or supplemental to the train service of the parent railway, were imposed.

Ten motor carriers oppose the application. Two of them possess authority to serve all points on the White Line route, and one of these also holds authority to serve all points on the Frederickson Line route. Neither has been furnishing any substantial amount of peddle service on less-than-truckload shipments on these routes. Others of these 10 carriers render some peddle service to and from a few points principally to the immediate east of Des Moines, but the record is unconvincing that this service is adequate. Those having interstate authority on U. S. Highway 6 assert that they are anxious to provide peddle service as the traffic warrants. All believe that a grant of [fol. 70] authority in this proceeding would be detrimental to their operations principally by depriving them of traffic that they might transport if applicant's operations are subjected to the five conditions previously discussed. These opposing carriers concede that during the approximate 14-year period in which time applicant was operating over the involved routes without restricting its service, the volume of traffic handled by each of these carriers has increased substantially and generally to a greater extent than did the volume transported by applicant.

The examiner recommended that the application be granted. On exceptions the protestant and interveners in opposition allege that the examiner erred (1) in construing the decision in *United States* v. *Rock Island Motor Transit Co., supra,* (2) in stating the purpose of the application, (3) in his interpretation of our policy respecting the imposition of restrictions on operating authorities issued to motor-carrier subsidiaries of railroads, and in finding (4) that the White Line route rights had been operated for several years without complaint that such opera-

tions unduly restrained competition, (5) that applicant is the only carrier that for many years has maintained daily scheduled peddle operations over the entire White Line route and Frederickson Line route, (6) that other carriers provide such service only on small segments of these routes, (7) that opposing carriers delivered less-than-truckload freight to applicant for movement to destinations they are authorized to serve, (8) that the supporting witnesses from points in Iowa have built their businesses on applicant's service, particularly with respect to less-than-truckload shipments, (9) that such witnesses deem applicant's service very satisfactory and are not convinced that other motor carriers can or will render the same type of service, (10) that Iowa-Nebraska Transportation Co., Bos Truck Lines, and Des Moines Transportation Company, hereinafter called Iowa-Nebraska, Bos, and Des Moines Transportation, respectively, are the only motor carriers that hold appropriate authority to serve all points or a substantial number of points on the routes directly involved, (11) that there is no serious contention that Bos and Des Moines Transportation are in a position to supplant applicant's operation, (12) that Iowa-Nebraska is the carrier that the opposition advances as being in a position to take over the interstate traffic moving to and from points on the White Line and Frederickson Line routes which applicant would have to relinquish, (13) that Iowa-Nebraska inaugurated certain peddle operations for the purpose of placing the opposing carriers in a position at the hearing to show that they are endeavoring to provide service, (14) that Iowa-Nebraska does not contemplate inaugurating daily scheduled peddle operations to take the place of each such operation conducted by applicant, (15) [fol. 71] that opposing motor carriers did not present one public witness to testify as to adequacy of their service, (16) that applicant has in general, throughout the years, worked for the development and betterment of the motor-carrier industry, (17) that the reluctance of shippers to ship under rail billing is due to the fact that the shipments require longer time in transit, (18) that the operations of applicant have not unduly restrained competition, (19) that the nonparticipation of the railroad in motor-carrier

tariffs is due to the policy of the motor carriers refusing to establish joint rates, (20) that the evidence abundantly establishes that public necessity and convenience requires the proposed less-than-truckload peddle operations, (21) that not one of the opposing carriers having the requisite authority has established or offered to establish scheduled peddle operations to replace the type of service rendered by applicant, (22) that with three kinds of traffic available to applicant it could provide better service than those carriers who claim they can take over applicant's interstate motor-billed freight, (23) that the opposing motor carriers cannot obtain intrastate rights, (24) that there is evidence that opposing motor carriers have refused to accept truckloads of low-rated commodities, (25) that the truckload traffic which is "the cream of the traffic" has been handled by applicant for many years without seriously affecting the expansion of its competitors, (26) that opposing motor carriers would be under a public duty to provide the peddle service on interstate motor-billed freight, which traffic alone will not justify the type of service heretofore rendered by applicant, (27) that applicant would still be tendered intrastate-and-rail-billed traffic, which would not warrant continuance of the operations conducted by it prior to August 30, 1951, (28) that the net result would be injury to the public, (29) that a substantial number of employees of applicant would be dismissed, (30) that the conclusions reached in his report are not an abrogation of the policy established in *Kansas City S. Transport Co., Inc., Com. Car. Application*, 10 M. C. C. 221, 240, decided November 12, 1938, and in concluding (31) that the application should be granted in its entirety.

As noted, protestants and interveners challenge practically every material statement of fact and conclusion reached therefrom, in the report of the examiner. Briefly their position is that the evidence does not establish a public need for the proposed service of applicant other than a supplementary or auxiliary service to the rail service of the Rock Island, and that several of them are able, ready, and willing to provide all the types of service that Motor Transit would have to discontinue under the restrictions we have imposed on applicant's permanent au-

thority. In addition they allege that we have no jurisdic-[fol. 72] tion to grant applicant a certificate without restrictions. This will be discussed later herein.

In general protestant and interveners argue that the grant recommended by the examiner would give applicant an advantage over them by reason of its affiliation with the Rock Island through (1) financial assistance, if necessary, (2) the transportation of rail-billed freight under a contractual agreement with Rock Island, (3) the movement of traffic in merchandise cars and by truck between the same points, (4) the possibility that applicant might solicit traffic to be moved between identical points at either the rail or motor-carrier rates, (5) the ignoring by Rock Island and applicant of tariff provisions regarding packing and loading, (6) the use by applicant of dock and terminal facilities leased from Rock Island, and (7) the removal of the key-point restriction, which would permit eastbound rail-billed traffic to move by truck.

Rock Island has rendered applicant financial assistance, traffic has been moving and would continue to move as indicated in (3) and (7) above, but there is no substantial evidence that these things have during the past several years materially affected the operations of the opposing motor carriers. From the past history of Motor Transit's operations there is little reason to believe that future operations would be conducted in any radically different manner from those in the past. The contention in (4) above is a possibility but applicant has not done so in the past. No explanation of (5) above is advanced, but carriers may not legally disregard tariff provisions. Applicant has and would enter into contractual agreements as indicated in (2) and (6) above with Rock Island. The record is vague regarding the terms of such agreements and Rock Island through these agreements could secure transportation of its freight at less than reasonable charges for the service rendered and lease to applicant dock and terminal facilities at rents in excess of their actual value. Therefore, we are of the opinion that any grant of authority herein should be subject to a condition that all contractual agreements between applicant and Rock Island should be reported to us and should be subject to revision if and as we find it

to be necessary in order that such agreements shall be fair to the parties and to the public.

The contentions advanced by protestant and interveners on oral argument with respect to the facts are for all practical purposes the same as those set forth in their exceptions. In both their exceptions and on oral argument they insist that we are without statutory authority to grant applicant the type of certificate here sought. They arrive at this conclusion from our policy since the enactment of the Motor Carrier Act, 1935, of generally imposing restric- [fol. 73] tions on certificates granted to motor-carrier subsidiaries of railroads, which restrictions usually have provided, among other things, that the service of the motor carrier shall be supplemental of, or auxiliary to, the service of the railroad. Such restrictions were first imposed in *Pennsylvania Truck Lines, Inc.—Control—Barker M. Frt.*, 1 M. C. C. 101 and 5 M. C. C. 9 and 49, and *Kansas City S. Transport Co., Inc., Com. Car. Application*, 10 M. C. C. 221, and 28 M. C. C. 5. Opposing carriers concede that section 207 of the Interstate Commerce Act, hereinafter called the act, the section under which this application was filed, does not contain any provisions requiring imposition of restrictions on certificates issued to motor-carrier subsidiaries of railroads, but nevertheless argue that the national transportation policy, congressional intent, and the provisions of section 5 (2) (b) of the act governing "Combinations and consolidations of carriers" (formerly section 213 of the Motor Carrier Act, 1935), require that the various forms of transportation be kept distinct so that each can operate in its own sphere independently of the other. It is claimed that these considerations mean that we do not have statutory authority to grant applicant an unrestricted certificate. We do not subscribe to this view. Our statutory authority to impose terms and conditions on a grant of authority under section 207 is derived from section 208 of the act. We have always construed these two sections in the light of the national transportation policy to require, where the circumstances warranted, the imposition of restrictions on certificates issued to motor-carrier subsidiaries of railroads. Where the circumstances did not require such action, we have issued cer-

tificates subject to a reservation to impose in the future any limitations, restrictions, or modifications that may appear necessary, and in some instances certificates have been issued without restrictions or even a reservation as just described. These two types of certificates, if protestant's and interveners' theory is sound, would be null and void, because, according to them, we possess no statutory authority to issue certificates to carriers such as applicant unless they are limited to services that are supplemental to, or auxiliary of, the service of a railroad. All certificates of this character have been issued strictly in accordance with the applicable statute.

Protestant and interveners also contend that the decision of the United States Supreme Court in *United States* v. *Rock Island Motor Transit Co., supra,* supports their position that we are without jurisdiction to grant the kind of certificate sought. We find nothing in that decision that warrants such a conclusion. Therein the Court affirmed our power to impose the restrictions hereinbefore quoted. It did not directly or by reasonable implication say that we have no statutory power to issue certificates of the character here considered without restrictions. In our opinion the decision does not require any change in the [fol. 74] interpretation heretofore placed on the statute and the national transportation policy. In other words we may issue certificates to motor-carrier affiliates of railroads with or without restrictions as the circumstances may require.

A review of the development of our policy of granting motor-carrier operating authorities to rail affiliates and the applicability of these precedents to this application is set forth in the examiner's report, but is worthy of repetition.

The Motor Carrier Act, 1935, was approved August 12, 1935, and therein Congress declared its policy to be as follows:

> to regulate transportation by motor carriers in such manner as to recognize and preserve the inherent advantages of, and foster sound economic conditions in, such transportation and among such carriers in the public interest; promote adequate, economical, and

> efficient service by motor carriers, * * * improve the relations between, and coordinate transportation by and regulation of, motor carriers and other carriers; develop and preserve a highway transportation system properly adapted to the needs of the commerce of the United States and of the national defense; * * *.

The declaration of policy of Congress in the Transportation Act of 1940, approved September 18, 1940, is worded somewhat differently, but its import is substantially the same as that contained in the foregoing quotation.

Section 213 (a) (1) of the Motor Carrier Act permitted a railroad to acquire a motor carrier, provided we find that the acquisition will promote the public interest by enabling the railroad to "use service by motor vehicle to public advantage in its operations," without undue restraint of competition. This section was repealed by the Transportation Act of 1940. The substance thereof was carried into section 5 of the act.

Early in the regulation of the motor-carrier industry, division 5, in *Pennsylvania Truck Lines, Inc.—Control—Barker. M. Frt., supra,* said:

> we are not convinced that the way to maintain for the future healthful competition between rail and truck service is to give the railroads free opportunity to go into the kind of truck service which is strictly competitive with, rather than auxiliary to, their rail operations. The language of section 213, * * *, is evidence that Congress was not convinced that this should be done.

These views ripened into a policy in *Kansas City S. Transport Co., Inc., Com. Car. Application, supra,* which was prior to the acquisition by Motor Transit of the White Line and Frederickson Line rights. Therein division 5 imposed 5 conditions or restrictions upon the operating authority granted to a motor-carrier subsidiary of 2 affiliated railways, which in most respects were substantially the same as the conditions and restrictions ultimately imposed and contained in the certificate issued to Motor Transit on September 11, 1951. After that decision, practically all [fol. 75] grants of operating authority to motor-carrier

subsidiaries of railroads were made subject to like conditions and restrictions or modifications thereof required by the particular circumstances, except in a few instances, such as that here under consideration insofar as the White Line rights are concerned, the certificates contained no provisions limiting the service to that which is auxiliary to, or supplemental of, train service. The approval of the purchase of the White Line rights and the original certificate covering these rights, as before indicated, were specifically made subject to the condition or reserved right later to impose such restrictions which we might find necessary to insure that the service would be limited to that which is auxiliary to, or supplemental of, train service of the Rock Island.

The main purpose for the policy of imposing the five above-quoted restrictions, or modifications thereof, was to prevent the railroads from acquiring motor operations through affiliates and using them in such a manner as to unduly restrain competition of independently operated motor carriers. This policy was and is sound and should be relaxed only where the circumstances clearly establish (1) that the grant of authority has not resulted and probably will not result in the undue restraint of competition, and (2) that the public interest requires the proposed operation, which the authorized independent motor carriers have not furnished, except where it suited their convenience.

Motor Transit operated the White Line rights in Iowa under claimed "grandfather" rights from April 1938, to December 31, 1941, and under a certificate from the latter date to February 5, 1945, that contained only the reserved right to impose in the future such conditions that may be necessary to insure that the service shall be auxiliary to, or supplemental of, train service. From February 5, 1945, to the present, Motor Transit has continued the operation by reason of pending proceedings before us or litigation before the courts, or under temporary authority originally issued August 30, 1951, later modified, and subsequently extended to the date of the disposition of this proceeding. Although our policy of imposing the quoted restrictions was established about 3 years prior to the issuance of a certificate to Motor Transit, the certificate of that carrier

did not restrict the operation of the White Line rights in any manner. Thus, Motor Transit operated under such rights for a period of about 7 years without any complaint that its operation was unduly restraining competition or indication that we contemplated exercising the said reserved rights. After we, on our own motion, reopened No. MC-29130 and the 2 related cases for reconsideration, and imposed the above-described 5 restrictions and conditions, the proceedings were reopened for further hearing upon petition of Motor Transit for reconsideration, oral argument, [fol. 76] and withdrawal of the report on reconsideration. The attorneys representing Motor Transit at that time did not recognize our jurisdiction to change or modify the orders authorizing the acquisition of Motor Transit's certificates, and they entered a special appearance on applicant's behalf solely for the purpose of filing the petition. At the subsequent further hearing a like appearance was entered for the sole purpose of contesting our jurisdiction. Consequently there was no new or additional evidence before us and, as a result thereof, the only issue was the question whether the reasoning of the prior report on reconsideration and the conclusions reached therein were sound in the face of the criticisms thereof contained in Motor Transit's petition. In the circumstances we had no alternative but to impose the restrictions and conditions established in accordance with the policy enunciated in *Kansas City S. Transport Co., Inc., Com. Car. Application, supra.* This action was considered by the United States District Court for the Northern District of Illinois in a suit initiated by Motor Transit. That court set aside and permanently enjoined enforcement of our order. This decision sustained Motor Transit's position. On appeal, however, the United States Supreme Court reversed the decision of the district court and thereby sustained our views. Thereafter, Motor Transit requested limited temporary authority and filed this application under section 207 of the act for permanent authority. Thus, after the passage of approximately 4 years, Motor Transit concluded to do substantially what it had an opportunity to do in October 1947, namely to introduce additional evidence in the reopened proceedings.

Applicant is the only carrier that for a considerable number of years has maintained daily (generally at least 5 days a week) scheduled peddle operations over the entire White Line and Frederickson Line routes regardless of the volume of traffic available for movement in such operations. Opposing motor carriers with appropriate authority have not provided such a service, except with respect to selected small segments of the routes, principally immediately east of Des Moines. These carriers prior to August 30, 1951, delivered less-than-truckload freight to Motor Transit for movement to destinations they are authorized to serve. Some of this freight consisted of low-rated articles which such carriers deemed unprofitable to handle. These carriers in many instances refused to accept less-than-truckload shipments from their motor-carrier connections for movement to a destination embraced in their operating authority. As a result thereof, several of these connecting carriers have had to rely upon Motor Transit to accept and make delivery of such shipments, even in cases where the delivering carrier was designated by the shipper. These experiences have convinced some of the connecting carriers that the unrestricted services of [fol. 77] Motor Transit should continue to be available to them so that they may have a carrier that is always willing and able to accept interchange shipments destined to points on the White Line and Frederickson Line routes. One motor carrier that possesses rights on U. S. Highway 6 between Davenport and Des Moines, elects to give all of its less-than-truckload freight to Motor Transit for delivery at such points, because it is not profitable for it to provide this service.

Applicant adduced testimony of a great number of public witnesses from practically every point served by Motor Transit on the routes directly involved here and also some located at certain points on its other routes that would be affected by the restrictions and conditions imposed September 11, 1951. The witnesses located at points in Iowa have used the services of Motor Transit over a period of many years and have, to a considerable extent, built their businesses on that service, particularly with respect to less-than-truckload shipments. With that service available,

they do not have to maintain large inventories because they can order from the manufacturer or wholesaler at the supply points, such as Chicago, Minneapolis-St. Paul, Omaha, Kansas City, or Moline, early one day and be reasonably certain of delivery on the next day in some instances, and in others not later than the second day. Some of them stressed their need for this service in obtaining expedited movement of repair parts, including those for farm machinery. In general, all of these witnesses, both those directly and indirectly affected, are apprehensive that, if we ultimately require Motor Transit to confine its operations to the transportation of rail-billed freight, their businesses will be adversely affected, as indeed some of them already have been, by the weight limitations imposed in the temporary authorities. Some of the witnesses have not been able to obtain reasonably prompt pickup and delivery of shipments by carriers other than Motor Transit. A few of them could get long without the service of Motor Transit, but they would use it in preference to the service of any other authorized carrier. The great majority of these witnesses support this application because they have received satisfactory service from Motor Transit for a long time, and they are not convinced that any other motor carrier will or can render the type of complete service respecting transportation, claim adjustments, rate and routing information, and tracing of shipments to which they are accustomed. Motor Transit is able to provide such complete service because it maintains freight agents at many points on its routes and the other motor carriers have them located at some of the larger points only.

Of the opposing motor carriers, Iowa-Nebraska, Bos, and Des Moines Transportation, are the only ones with interstate authority to serve all points or a substantial number of designated points on the routes directly involved in this [fol. 78] proceeding. Bos has the authority to provide peddle service at all points on U. S. Highway 6 in Iowa. It has been providing such service approximately three times a week from Des Moines to Grinnell and return, and from Des Moines to Anita and return. A few other points on the White Line route are served by over-the-road equip-

ment, through cartage companies, or on a call-and-demand basis. These services are not comparable to the peddle services rendered by Motor Transit. Des Moines Transportation possesses interstate authority to serve only 10 intermediate points on U. S. Highway 6 between the Mississippi River and Omaha. Daily peddle service is provided at 6 of the 10 points. These 6 points are located east of Des Moines. This carrier's authority is insufficient to allow it to replace the interstate service heretofore rendered or presently being rendered by Motor Transit. Recognizing this it says that if necessary it will seek additional authority. Certain other opposing carriers hold authority to serve a few of the points on the routes directly or indirectly involved. There is no serious contention that either Bos or Des Moines Transportation is in a position to supplant Motor Transit operations as rendered prior to August 30, 1951.

Iowa-Nebraska is the carrier that the opposition advances as being in a position to take over the interstate traffic moving to and from points on the White Line and Frederickson Lines routes, which Motor Transit would have to relinquish under the conditions and restrictions imposed September 11, 1951. This carrier possesses the required interstate authority to render such service, but over the years it has not been providing any substantial peddle service on these routes. This, no doubt, was attributable to the small amount of this kind of traffic available to this carrier and to some extent probably by the fact that a large part of its business is the transportation of dairy products eastbound to Chicago, Philadelphia, New York City, and Boston. In February 1952, it inaugurated certain peddle operations, and together with the other opposing line haul motor carriers and certain other motor carriers discontinued, after August 30, 1951, the transfer of less-than-truckload traffic to Motor Transit for delivery to points on its lines also served by one or more of the opposing carriers. Iowa-Nebraska does not contemplate inaugurating daily scheduled peddle operations to take the place of each such operation conducted by Motor Transit, but says that it will provide this type of service as demanded by the volume of traffic. This clearly is not the kind of

service that the supporting witnesses have had available in the past, and their testimony demonstrates that they will not be satisfied with less in the future.

Applicant's operations have been conducted in the same manner as other motor carriers operating in the same area. [fol. 78-A] It has participated in the conferences of such carriers and is a party to their agency tariffs, and in general throughout the years has worked for the development and betterment of the industry as a whole without regard to its being a subsidiary of a railroad. The less-than-carload traffic moving by railroad over a recent 5-year period has consistently declined. During a comparable period the volume of traffic handled by a group of nine motor carriers serving the Midwest area increased substantially. Applicant's tonnage also increased, but not to the extent of its competitors represented by this group of carriers. Thus the operations of applicant have not unduly restrained competition, and there is no evidence that its proposed operations would produce such a result.

The opposing motor carriers take the position that Motor Transit's operations should be restricted, in accordance with our general policy in this type of proceeding, to the transportation of rail-billed freight only. They indirectly imply that Motor Transit could handle freight on this type of billing just as expeditiously as that moving on motor-carrier billing. Theoretically this should be true, but in actual practice the motor-billed freight is handled with greater dispatch; and this is the reason that many of the public witnesses supporting applicant have refused to deliver their shipments to Rock Island for billing even though the line-haul transportation thereof is performed entirely by Motor Transit. The reluctance of shippers to use this kind of service is clearly due to the fact that it requires longer time in transit. For example, a shipment moving on rail billing from the Twin Cities to Marengo is picked up by the cartage company employed for that purpose by Rock Island and delivered to the Minneapolis or St. Paul rail terminal, worked, billed, and, in 1 or 2 days, turned over to Motor Transit for movement to destination. This shipment would require from 2 to 4 days more in transit than would be necessary if it moved by Motor Transit on

motor billing. The situation in the reverse direction would be substantially similar. Motor-billed shipments from Chicago are picked up by Motor Transit and moved out in road-haul equipment the same night, as contrasted with rail-billed shipments which are picked up by a cartage company for Rock Island and moved to Burr Oak, 15 miles, worked, billed, and returned to Chicago for transfer to Motor Transit for transportation to destination, or if it is necessary to move these shipments west from Burr Oak in boxcars owing to the key-point restriction they would not reach Davenport for 2 or 3 days and sometimes longer. Similar delays occur on shipments in boxcars to Des Moines. The delays in handling rail-billed shipments from Chicago are greater than from the Twin Cities. Rail-billed freight is delayed at points in Iowa on account of the [fol. 78-B] method of handling these shipments before they are transferred to Motor Transit for movement. Perhaps these delays are unavoidable, but it seems that some course of action might be undertaken by Rock Island to eliminate or reduce the time of rail-billed shipments in transit.

The evidence abundantly establishes that public convenience and necessity require the proposed less-than-truckload peddle operations. In addition to the testimony of the many public witnesses regarding their need for such service, there must be taken into consideration that not one of the opposing motor carriers having the requisite authority has established or offered to establish scheduled peddle operations to replace each such operation conducted by Motor Transit prior to August 30, 1951, and, by refraining from doing so, they no doubt realize that such peddle operations could not be profitably operated with interstate traffic only. The peddle service provided by Motor Transit has been, and to a limited extent, due to the weight limitation, is, based on interstate, intrastate, and rail-billed traffic. With these three kinds of traffic available it is patent that Motor Transit could provide better service to the public than the motor carriers who claim that they can take over Motor Transit's interstate motor-billed business. These carriers hold no intrastate rights on the considered White Line and Frederickson Line routes and cannot obtain such rights because it is the policy of the Iowa State Commerce Com-

mission to grant such rights to only one carrier on a given route. Motor Transit possesses such rights on these routes.

There is some evidence of a public need for the proposed truckload services of applicant, but it is not as convincing as that with respect to the peddle operations, and this is understandable because the other motor carriers operating in the area have usually provided satisfactory service on truckload shipments. There is also some evidence that the latter have refused to accept truckloads of low-rated commodities. In any event we feel that there is sufficient basis to warrant a complete grant of authority to applicant. This truckload "cream of the traffic," which to some extent has been handled by Motor Transit for many years without seriously affecting the expansion of its competitors' operations, should not be handed over to its competitors and Motor Transit expected to provide the expensive peddle services.

Acceptance of the opposing motor carriers' position would have the following results. They would be left to provide the peddle services on interstate motor-billed traffic, which alone will not justify the type of services heretofore rendered by Motor Transit, and all such traffic in truckloads. Motor Transit would be left with intrastate and rail-billed traffic, which will not warrant continuance [fol. 79] of the operations conducted by it prior to August 30, 1951. The net result is clearly not in the public interest.

Applicant seeks unrestricted authority and we are satisfied that the grant of authority hereinafter made should be free of restrictions, except the one previously discussed and, in addition, one whereby we shall retain jurisdiction to impose in the future whatever restrictions or conditions, if any, appear necessary in the public interest by reason of material changes in conditions or circumstances surrounding applicant's operations in relation to those of competing motor carriers. Accordingly such a restriction will be imposed.

The application requests, among other things, authority over designated highways between Chicago and Omaha. Applicant presently holds authority between Chicago and Silvis. Consequently, there is no reason for including this segment in the findings herein. The findings will include

only the segment of this route between Silvis and Omaha, which authority may be tacked with the present authority between Chicago and Silvis.

The commodity description used in the findings herein authorize the transportation of dangerous explosives, except nitroglycerin. This description in its entirety is the same as that contained in the certificate issued on September 11, 1951.

The authority herein set forth in our findings supersedes and cancels all authority heretofore granted between the same points, more particularly described on "Sheets 2 and 15" of the certificate issued to applicant on September 11, 1951.

The findings hereinafter made are not to be construed as an abrogation of the policy established in *Kansas City S. Transport Co., Inc., Com. Car. Application, supra.* They represent an exception to that policy justified by the evidence in this proceeding. In other words, such findings do not establish a precedent. Each case of this character must be determined upon the facts and circumstances disclosed by the evidence.

FINDINGS

We find that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, of general commodities, except those of unusual value, nitroglycerin, household goods as defined in *Practices of Motor Common Carriers of Household Goods, supra,* commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, (1) from Silvis, Ill., to Omaha, Nebr., over Illinois Highway 92 to its junction with U. S. Highway 6, and thence over U. S. Highway 6 to Omaha, and return over same route, serving the intermediate points of East Moline, Moline, [fol. 80] and Rock Island, Ill., and Bettendorf, Davenport, Durant, Wilton Junction, Atalissa, West Liberty, Iowa City, Coralville, Tiffin, Homestead, Marengo, Ladora, Victor, Brooklyn, Grinnell, Newton, Colfax, Altoona, Des Moines, Dexter, Stuart, Menlo, Casey, Adair, Anita, Wiota, Atlantic, Oakland, and Council Bluffs, Iowa, and the off-route points of Walcott, Muscatine, Stockton, Moscow,

Oxford, South Amana, Malcom, Kellogg, Lewis, and Mitchellville, Iowa, (2) from Iowa City, Iowa, to Cedar Rapids, Iowa, over U. S. Highway 218 and return over same route, serving no intermediate points, (3) from Harlan, Iowa, to Omaha, Nebr., over Iowa Highway 64 to Council Bluffs, and thence over U. S. Highway 6 to Omaha, and return over same route, serving the intermediate points of Corley, Minden, Neola, Underwood, and Weston, Iowa, and the off-route point of Shelby, Iowa, and (4) from Avoca, Iowa, to Atlantic, Iowa, (*a*) over U. S. Highway 59 to Oakland, and thence over U. S. Highway 6 to Atlantic, and (*b*) over Iowa Highway 83 to Atlantic, and return over either route, serving the intermediate points of Hancock, Walnut, and Marne, Iowa, subject to the conditions (1) that there may be attached from time to time to the privileges granted herein such reasonable terms, conditions, and limitations as the public convenience and necessity may require, and (2) that all contractual arrangements between The Rock Island Motor Transit Company and the Chicago, Rock Island and Pacific Railroad Company shall be reported to us and shall be subject to revision, if and as we find it to be necessary in order that such arrangements shall be fair and equitable to the parties; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and our rules and regulations thereunder; that a certificate authorizing such operations should be granted; and that the application in all other respects should be denied.

Upon compliance by applicant with the requirements of sections 215 and 217 of the act, and with our rules and regulations thereunder, an appropriate certificate will be issued.

An appropriate order will be entered.

COMMISSIONER FREAS concurs in the result.

ALLDREDGE, *Commissioner*, dissenting:

The majority decision authorizes a railroad subsidiary to enter the motor-carrier field for the purpose of rendering a straight, unrestricted service in the transportation of freight over extensive highway routes, although power is reserved to the Commission to attach to the privileges

granted such reasonable terms, conditions, and limitations as the public convenience and necessity may require in the [fol. 81] future. The decision so far as its immediate effect is concerned, will thus permit the railroad in question to perform a motortruck service which is not merely complementary to, or supplemental of, its railroad operations, but which is, in many instances at least, directly competitive therewith. The authorized service will be competitive also with independent motor-carrier operations.

It is true, according to the record, that applicant may, and probably will, for a time, be in position to render a superior motor-carrier service to that afforded numerous shippers by the regular motor carriers. The deep concern of these shippers for an efficient and reliable transportation service is understandable; but other important considerations must be resolved before an application of this kind may lawfully be granted.

In determining questions of public interest in such proceedings as this the Commission must be guided by the standards prescribed by Congress. Although the majority report apparently rests its ultimate conclusions upon sections 207 and 208 of the Interstate Commerce Act, other provisions of statutory law, including the specially enacted national transportation policy, are involved and should have decisive influence in determining the issues. One of these provisions is section 5 (2) (b) of the act. That subsection states, in effect, that where a carrier by railroad, or any person controlled by such a carrier, or affiliated therewith, is an applicant in any proposed transaction involving certain intercarrier relations (which unquestionably includes the transaction here before the Commission) the Commission shall not enter an order of approval "unless it finds that the transaction proposed will be consistent with the public interest and will enable such carrier to use service by motor vehicle to public advantage *in its operations* and will not unduly restrain competition." [Italics supplied.] The Supreme Court, in the *Rock Island* case cited in the majority report, construed this provision of law along with others and then reviewed the practice of the Commission in restricting certificates issued to railroads or their subsidiaries to conduct motortruck service so as to

keep such service, auxiliary or supplemental to railroad operations.

The Court pointed out, at pages 443 and 444 of its opinion, that such restrictions as the Commission had been imposing "hamper railroad companies in the use of their physical facilities—stations, terminals, warehouses—their personnel and their capital in the development of their transportation enterprises to encompass all or as much of motor transportation as the roads may desire." After thus stating the necessary effect of the Commission's customary restrictions, the Court said, "The announced transportation policy of Congress did not permit such development." This means, of course, that Congress has not established [fol. 82] a policy of free and unlimited employment of motor carriers by railroads; that restrictions are necessary in order to confine each transport agency to a sphere where it may have an opportunity to develop its own inherent advantages to the fullest possible extent. This established policy of Congress was also discussed, explained, and elucidated by the Supreme Court in another important decision preceding the one in the *Rock Island* case, namely *McLean Trucking Co.* v. *United States*, 321 U. S. 67.

The majority seems to pay some homage to this policy by declaring it to be sound and subject to relaxation "only where the circumstances clearly establish (1) that the grant of authority has not resulted and probably will not result in the undue restraint of competition, and (2) that the public interest requires the proposed operation, which the authorized independent motor carriers have not furnished, except where it suited their convenience." Congress, however, has not provided for any exclusions from its declared policy. That is a prerogative of Congress itself. The Supreme Court did point out in the *Rock Island* case that restrictions might well vary from time to time; but there is no indication that Congress intended to confer power upon the Commission to issue *carte blanche* authority to a railroad to perform unrestricted motor-carrier service, subject, as here stated, only to such terms, conditions, and limitations as the public convenience and necessity may require in the future. The phrase "public convenience and necessity," in the context in which it is used in the act, does not compre-

hend the full public interest in transportation envisaged by congressional policy.

There may be a good reason for this policy which goes beyond the protection of different modes of transportation. It may be needed to protect the railroads against themselves. Without restraining influences in the law, it would not be too difficult, for instance, for one railroad, through the purchase of an independent motor-carrier operation, to invade the territory of another railroad without complying with the public-convenience-and-necessity provisions of part I of the act. *Cf. Texas & P. Ry. Co.* v. *Gulf, C. & S. F. Ry. Co.*, 270 U. S. 266.

I cannot agree that a proper balance between the contending interests in the light of congressional policy has been reached by the majority in this proceeding. Some of the restrictions presently contained in applicant's certificates and temporary authorities could well be modified, such as the elimination of certain, but not all, key points and the removal of the quantity restriction on motortruck shipments; but this record does not call for such drastic changes in operating authorities as the majority has approved. Unquestionably, the shippers in this area are entitled to adequate and efficient transportation service. To the extent [fol. 83] that such a relaxation of the present restrictions in applicant's operating authorities as I have suggested does not accomplish this objective, then the independent motor carriers should be required to see that the necessary service is furnished. The existing law seems to be adequate for that purpose.

ARPAIA, *Commissioner*, dissenting in part:

In considering the legal and policy questions involved in this application by a railroad affiliate for unrestricted motor-carrier authority, the majority seems to have lost sight of the more elementary question concerning the adequacy of proof of public convenience and necessity. Apparently the majority has been overwhelmed by the quantity of the evidence in this proceeding. In previous cases, we have not allowed ourselves to be persuaded by the number of witnesses or by general statements, but rather have been motivated by the quality of the evidence. See, for example *Hancock Trucking, Inc., Ext.—Gulf and West Coast Routes*,

62 M. C. C. 513, and *T. S. C. Motor Freight Lines Extension —New York*, 62 M. C. C. 499.

A careful analysis of the record is convincing that applicant has failed to prove that public convenience and necessity require its proposed service, at any of the routes and points except those on U. S. Highway 6 (the White Line route). Indeed, there is considerable doubt in my mind that applicant has met its burden of proof of need for service along that segment which runs from Iowa City to Cedar Rapids. The only justification for a grant of authority to serve that portion is as a necessary adjunct to the remainder of the White Line route.

With respect to the other authority sought by applicant, the proof does not meet the standard which we have applied heretofore, and I see no reason for deviating from our established requirements.

The majority has concluded that a condition reserving our power to impose restrictions at a later date is necessary. Because of the language used on page 108 of the report in describing the need for reserving that power, I have some doubt as to the efficacy of the condition prescribed. It should be clear and unequivocal. I feel that condition (1) in the findings is neutralized by the language in the discussion insofar as it adds any qualifications to those set forth in section 208 of the act. To be more specific, the words in the discussion after "public interest," to wit: "by reason of material changes in conditions or circumstances surrounding applicant's operations in relation to those of competing motor carriers," are not only too general and unnecessary, but, to my mind, could be construed to limit our power to attach such subsequent limitations as may be found necessary in the public interest.

[fol. 84] APPENDIX A TO COMPLAINT

ORDER

At a General Session of the INTERSTATE COMMERCE COMMISSION, held at its office in Washington, D. C., on the 22nd day of November, A. D., 1954.

No. MC-29130 (Sub. No. 70)

THE ROCK ISLAND MOTOR TRANSIT COMPANY COMMON CARRIER APPLICATION

Investigation of the matters and things involved in this proceeding having been made, and the Commission, on the date hereof, having made and filed a report herein containing its findings of fact and conclusions thereon, which report is hereby made a part hereof:

It is ordered, That said application, except to the extent granted in said report, be, and is hereby, denied.

By the Commission.

George W. Laird, Secretary.

[fol. 85] APPENDIX B TO COMPLAINT

ORDER

At a General Session of the INTERSTATE COMMERCE COMMISSION, held at its office in Washington, D. C., on the 6th day of July, A. D. 1955.

No. MC-29130 (Sub. No. 70)

THE ROCK ISLAND MOTOR TRANSIT COMPANY COMMON CARRIER APPLICATION (Des Moines, Iowa)

No. MC-29130 (Sub. No. 2)

ROCK ISLAND MOTOR TRANSIT COMPANY EXTENSION OF OPERATIONS—SILVIS—CHICAGO, ILL.

Upon consideration of the record in the above-entitled proceedings, and of:

(1) Petition of Railway Labor Executives' Association for leave to intervene and for certain other relief, dated February 16, 1955.

(2) Petition of protestant motor carriers, American Trucking Associations, Inc., and the Regular Common Carrier Conference thereof, for reconsideration of the report of the Commission herein, dated February 16, 1955.

(3) Reply (resistance) of applicant and intervenors in (2) above.

(4) Petition of applicant and certain interveners for interpretation of present certificate in No. MC–29130 (Sub. No. 2), or, in the alternative, for modification of the report of the Commission in the title proceeding, dated May 16, 1955.

(5) Reply of protestant motor carriers, American Trucking Associations, Inc., and the Regular Common Carrier Conference thereof, to (4) above, dated May 26, 1955.

(6) Reply of Railway Labor Executives' Association to (4) above, dated May 26, 1955.

and good cause appearing therefor:

It is ordered, That the Railway Labor Executives' Association be, and it is hereby, permitted to intervene in said proceedings with the right to appear and participate in all further proceedings therein:

It is further ordered, That the petition in (2) above be, and it is hereby, denied, for the reason that the evidence adequately justifies the conclusions and findings in the report and order of November 22, 1954;

It is further ordered, That the petition in (4) above be and it is hereby, denied, for the reason that the relief sought is not warranted.

By the Commission.

Harold D. McCoy, Secretary

[fol. 86] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Civil Action No. 3171-55

AMERICAN TRUCKING ASSOCIATIONS, INC., 1424 Sixteenth Street, N.W., Washington 6, D. C.; REGULAR COMMON CARRIER CONFERENCE, 1424 Sixteenth Street, N.W., Washington 6, D. C.; IOWA-NEBRASKA TRANSPORTATION COMPANY, INC., 201 S.E. 6th St., Des Moines, Iowa; BRUCE MOTOR FREIGHT, INC., 2011 Easton Blvd., Des Moines, Iowa; WESTERN TRANSPORTATION COMPANY, 1300 W. 25th St., Chicago, Ill.; McCOY TRUCK LINES, INC., 1525 Grandview Ave., Waterloo, Iowa; MOTOR CARGO, INC., 700 Carroll St., Akron, O.; GATEWAY TRANSPORTATION COMPANY, 2130 South Ave., LaCrosse, Wis.; BOS TRUCK LINES, INC., 408 S. 12th Ave., Marshalltown, Iowa, Plaintiffs

v.

UNITED STATES OF AMERICA and INTERSTATE COMMERCE COMMISSION, Washington 25, D. C., Defendants

ROCK ISLAND MOTOR TRANSIT CO. Intervener on the Side of Defendant INTERSTATE COMMERCE COMMISSION.

MOTION OF ROCK ISLAND MOTOR TRANSIT COMPANY FOR LEAVE TO INTERVENE—Filed August 26, 1955

Rock Island Motor Transit Company respectfully states and shows the court as follows:

1. That it is a corporation organized under the laws of the State of Illinois; that it is engaged as a regular route common carrier of commodities, generally in the states of Illinois, Iowa, Minnesota, Nebraska, Missouri, Kansas, Arkansas, Oklahoma and Texas, by virtue of certain certificates of public convenience and necessity issued to it by the Interstate Commerce Commission under the terms and provisions of the statutes of the United States commonly known and referred to as the Interstate Commerce Act. Rock Island Motor Transit Company was applicant for a

certificate of public convenience and necessity before the Interstate Commerce Commission in a certain proceeding known and designated by the Commission as MC–29130, Sub. #70; in that proceeding applicant applied for, and was granted by the Interstate Commerce Commission, a certificate of public convenience and necessity authorizing it to operate as a motor carrier of commodities generally between Silvis, Illinois, and Omaha, Nebraska, over regular [fol. 87] routes, serving all intermediate stations as well as certain off-route points. The certificate, authorized to be issued in the proceedings above referred to, has not been issued but is being withheld by the Interstate Commerce Commission pending the determination of this suit.

2. As the successful applicant before the Interstate Commerce Commission for a certificate of public convenience and necessity, Rock Island Motor Transit Company has a substantial interest in this litigation and under the provisions of Title 28, Section 2323, USCA, is entitled to intervene and become a party to this proceeding to support and sustain the order of the Commission under review in this action.

3. Rock Island Motor Transit Company as an intervener in this action desires to file in this proceeding its intervening petition and answer to the bill of complaint in accordance with the copy thereof which is attached hereto marked Exhibit A and by this reference made a part of this petition for leave to intervene.

Wherefore petitioner, Rock Island Motor Transit Company, prays that an order be entered authorizing it to become a party to this action, as an intervener on the side of and in support of the order of the Interstate Commerce Commission, that it be granted leave to file its answer to the bill of complaint and for such other and additional relief as may be just and proper.

Rock Island Motor Transit Company

By s/ Arthur L. Winn, Jr., 743 Investment Building, Washington, D. C., s/ A. B. Howland, s/ J. H. Martin, 500 Bankers Trust Building, Des Moines, Iowa, Its Attorneys

[fol. 88] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Civil Action No. 3171-55

[Title omitted]

ANSWER TO COMPLAINT OF ROCK ISLAND MOTOR TRANSIT COMPANY, APPLICANT BEFORE THE COMMISSION—Filed October 26, 1955

Comes now Rock Island Motor Transit Company and states and shows the court as follows:

1. That it is a corporation organized under the laws of the State of Illinois, with its principal place of business at 139 West Van Buren Street, Chicago, Illinois, and with its principal operating office in the Plymouth Building, 10th & Walnut Sts., Des Moines, Iowa.

That it has been authorized, by order of this court, to become a party to this action as an intervener on the side of defendant, Interstate Commerce Commission, and as such intervening party it answers the complaint as follows:

ANSWER

Intervener, Rock Island Motor Transit Company, for answer to the complaint filed herein on or about July 29, 1955, states and shows the court as follows:

[fol. 89] 1. Intervener concedes that this cause is within the jurisdiction of this court and makes no other answer to the allegations and conclusions set forth in the Paragraph number "I" of plaintiff's complaint.

Intervener admits that American Trucking Assns., Inc. is a nonprofit corporation organized under the laws of the District of Columbia; that its principal office is maintained at 1424—16th Street N.W., Washington 6, D.C., and that it is an organization of the trucking industry.

2. Intervener denies that the so called Regular Common Carrier Conference of American Trucking Assns., Inc., is entitled to be named as a party plaintiff in this action and

avers that said organization is merely a department or branch of American Trucking Assns., Inc.

Intervener admits that Iowa-Nebraska Transportation Co., Des Moines Transportation Company, Bruce Motor Freight, Inc., Western Transportation Company, McCoy Truck Lines, Inc., Brady Transfer and Storage, Motor Cargo, Inc., Gateway Transportation Company and Bos Truck Lines, Inc. are corporations or partnerships engaged in the transportation of general commodities in interstate commerce and that each of said partnerships or corporations was a party to the proceeding before the Interstate Commerce Commission in Docket #MC29130, Sub. #70.

This intervener denies that the above named motor carriers will be adversely affected in the event that the Commission's order of November 22, 1954 is not suspended, enjoined, annulled or set aside.

3. Intervener admits that Rock Island Motor Transit Company duly filed with defendant, Interstate Commerce Commission, an application for a certificate of public convenience and necessity over certain designated routes extending between Chicago, Illinois and Omaha, Nebraska and with certain routes extending between Atlantic, Iowa and Council Bluffs, Iowa, via Avoca, in said state, on or about the 26th day of October, 1951, and said application was docketed as MC29130, Sub. #70, before said Commission.

[fol. 90] Intervener admits that hearings on said application were held at Des Moines, Iowa, beginning on March 18, 1952 and extending to, and including, April 1, 1952, and that said hearings were resumed on May 20, 1952 and continued until May 22, 1952, and that the Examiner's Proposed Report and Order was served on April 21, 1953; intervener admits that exceptions thereto were filed by plaintiffs and replies were filed by the applicant and other parties to said cause. Oral argument was had before the entire Commission on March 8, 1954; intervener further admits that the Commission rendered its report and order in said proceeding on November 22, 1954 by which applicant was granted, subject to certain conditions thereto attached, a certificate of public convenience and necessity authorizing operation by it over specified routes as a com-

mon carrier of commodities generally between Silvis, Illinois and Omaha, Nebraska, with the right to serve intermediate and off-route points as specified therein.

Intervener admits that plaintiff in this action filed a petition for reconsideration of said report and order by the Commission and that same was denied by the Commission, by order dated July 6, 1955, served on or about July 14, 1955.

Intervener admits that plaintiffs have exhausted their administrative remedies and that a certificate in accordance with the report and order of the Commission will be issued unless said report and order are annulled, set aside and issue of a certificate enjoined by a court of competent jurisdiction.

Intervener denies each, all and every allegation set forth in the paragraph designated "III" of the plaintiffs complaint except those hereinbefore expressly admitted.

4. Intervener denies that defendant, Interstate Commerce Commission, in making and issuing the report and order and in denying the reconsideration thereof, exceeded its jurisdiction and authority, and denies that the Commission was guilty of any errors, either of fact or of law, in [fol. 91] the consideration and determination of the proceeding before them in which intervener was applicant, designated as MC29130, Sub. #70.

Without in any manner waiving the effect of the foregoing denial, intervener answers Paragraphs (a) to (r) inclusive of Paragraph IV of plaintiffs complaint as follows:

(a) Intervener denies the allegations of the paragraph designated (a), and alleges and shows the court that the finding of the Commission, that present and future public convenience and necessity require operation by Rock Island Motor Transit Company in interstate commerce as a common carrier by motor vehicle over the routes described in the report, is supported by substantial evidence, and that said report and order are in accordance with the law, with the National Transportation Policy and Sections 5 (2)(b) and 207 of the Interstate Commerce Act.

(b) Intervener denies that the finding of the Commission that the shippers need unrestricted service of Rock Island

Motor Transit Company such as that enjoyed prior to August 30, 1951 is unsupported and contrary to the record and on the contrary alleges that the finding of the Commission is supported by substantial evidence and is in accordance with the record before the Commission.

(c) Intervener denies each and all of the allegations set forth in the sub-paragraph (c) of Paragraph IV of the complaint and alleges that the finding of the Commission is supported by substantial evidence and is in accord with the great weight of the evidence before the Commission.

(d) Intervener denies each, all and every allegation set forth in the sub-paragraph (d) of Paragraph IV of the complaint and alleges and shows the court that the conclusion of the Commission is supported by the evidence of numerous witnesses who testified to a need for service on shipments in excess of five thousand pounds maximum weight. The finding and conclusion of the Commission is directly in accord with the evidence before it.

[fol. 92] (e) Intervener denies each, all and every allegation set forth in sub-paragraph (e) of Paragraph IV of the complaint and alleges and shows the court that the finding and conclusion of the Commission is directly supported by substantial evidence that numerous witnesses testified to a need for service on interline shipments originating on the lines of other motor carriers and as to which the service of the Rock Island Motor Transit Company is the only service available at the point of destination. The finding and conclusion of the Commission is in accord with the great preponderance of the evidence found in the record.

(f) Intervener denies each, all and every allegation set forth in sub-paragraph (f) of Paragraph IV of the complaint and states and shows the court that the undisputed evidence discloses that eleven (11) towns and communities between Davenport and Des Moines, Iowa are served by no other motor carrier except applicant. These communities are:

Walcott	Coralville
Stockton	Oxford
Durant	Homestead
Wilton	South Amana
Atalissa	Altoona
Tiffin	

and that in addition thereto applicant's service is the only regularly scheduled service to at least six (6) other communities between the same points. The finding and conclusion of the Commission is the only finding that could have been made under the record.

(g) Intervener denies each, all and every allegation set forth in sub-paragraph (g) of Paragraph IV of the complaint and states and shows the court that the finding and conclusion of the Commission are supported by substantial evidence and in accord with the record before the Commission.

(h) Intervener denies each, all and every allegation set forth in sub-paragraph (h) of Paragraph IV of the complaint and states and shows the court that the finding and conclusion of the Commission are supported by substantial evidence and in accord with the record before the Commission.

[fol. 93] (i) Intervener denies each, all and every allegation set forth in sub-paragraph (i) of Paragraph IV of the complaint and states and shows the court that the finding and conclusion of the Commission are strictly in accord with the National Transportation Policy and with Sections 5 (2)(b) and 207 of the Interstate Commerce Act and in accord with the record before the Commission.

(j) Intervener denies that the finding and conclusion of the Commission referred to in sub-paragraph (j) of Paragraph IV of the complaint is a correct statement of the law and states and shows the Commission that upon application the Interstate Commerce Commission may, in its discretion, issue certificates of public convenience and necessity to motor carriers affiliated with or controlled by railroads and nothing contained in the National Transportation Policy or in Sections 5 (2)(b) and 207 of the Interstate Commerce Act prohibits the issuance of certificates to such persons under the conditions and circumstances found by the Commission and disclosed by the record.

(k) Intervener denies each, all and every allegation set forth in sub-paragraph (k) of Paragraph IV of the com-

plaint and states and shows the court that the decision of the Commission in the present case involved no departure from the Commission's past policy as evidenced by its prior decisions and that in rendering its decision in the instant case the Commission correctly construed and applied the National Transportation Policy and Section 207 of the Interstate Commerce Act, as well as Section 5 (2)(b) although the portion of Section 5 above referred to is not applicable to this controversy.

(l) Intervener denies each, all and every allegation set forth in sub-paragraph (l) of Paragraph IV of the complaint and states and shows the court that the decision of the Commission in the present case involved no departure from the Commission's past policy as evidenced by its prior decisions and that in rendering its decision in the instant case the Commission correctly construed and applied the [fol. 94] National Transportation Policy and Section 207 of the Interstate Commerce Act, as well as Section 5 (2)(b) although the portion of Section 5 above referred to is not applicable to this controversy.

(m) Intervener denies each, all and every allegation set forth in sub-paragraph (m) of Paragraph IV of the complaint and states and shows the court that the finding and conclusion of the Commission is in accord with the Interstate Commerce Act and consistent with the prior decisions of the Commission and violates no provision of the Interstate Commerce Act.

(n) Intervener denies each, all and every allegation set forth in sub-paragraph (n) of Paragraph IV of the complaint and states and shows the court that the opinion, findings, conclusions and order of the Commission all disclose that the Commission gave full consideration and proper effect to all provisions of the law including Sections 208 and 212 of the Interstate Commerce Act and the National Transportation Policy as expressed therein.

(o) Intervener denies each, all and every allegation set forth in sub-paragraph (o) of Paragraph IV of the complaint and alleges and shows the court that the Commission has not heretofore adopted a policy which would

prevent the rendition of service by a motor carrier to any point and that under the Interstate Commerce Act the extent to which there may be common ownership or control of railroads and truck lines is a matter solely within the discretion of the Commission with which the courts may not interfere.

(p) Intervener denies each, all and every allegation set forth in sub-paragraph (p) of Paragraph IV of the complaint and states and shows the court that the opinion of the Commission discloses that it gave proper effect to Commission's obligations and to the provisions of the law as set forth in the Interstate Commerce Act and National Transportation Policy.

(q) Intervener denies each, all and every allegation set forth in sub-paragraph (q) of Paragraph IV of the complaint and alleges that the report of the Commission shows that the Commission considered "economic realities" con- [fol. 95] fronting independent motor carriers as well as "economic realities" of the receivers and shippers of freight in the territories involved and that the Commission gave full consideration and effect to the facts with respect to the operation of independent motor carriers.

(r) Intervener denies each, all and every allegation set forth in sub-paragraph (r) of Paragraph IV of the complaint and alleges and shows the court that the whole record before the Commission establishes that the Commission's order was neither unreasonable, arbitrary, capricious, discriminatory or an abuse of discretion and on the contrary alleges that the report and order of the Commission are supported by substantial evidence well within the powers of the Commission and in no manner constitutes an abuse of the Commission's discretion.

5. WHEREFORE, intervener, Rock Island Motor Transit Company, respectfully prays as follows:

(a) That in accordance with Section 2284, Title 28, USCA, a three judge United States District Court be assembled.

(b) That a hearing of this cause be promptly had on its merits.

(c) That this court upon hearing, find, adjudicate and determine that the opinion, findings, conclusion and order of the Interstate Commerce Commission in this cause are lawful, are within the discretion of said Commission and, that the plaintiffs' complaint is without merit.

(d) That the judgment be entered in favor of the defendant and that the order of the Interstate Commerce Commission be, in all respects, sustained and confirmed; that [fol. 96] the complaint of plaintiffs be dismissed and that this intervener have such other and further relief as to the court may seem just and proper and for costs of this action.

s/ Arthur L. Winn, Jr., 743 Investment Building, Washington, D. C., s/ A. B. Howland, s/ J. H. Martin, 500 Bankers Trust Building, Des Moines, Iowa, Attorneys for Rock Island Motor Transit Company, Intervener

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[fol. 97] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Title omitted]

ANSWER OF THE INTERSTATE COMMERCE COMMISSION—

Filed September 15, 1955

The Interstate Commerce Commission, one of the defendants in the above-entitled case, hereinafter called the Commission, for answer to the complaint, says:

1.

Answering the allegations of paragraph I of the complaint, entitled "Jurisdictional Statement," the Commission admits the jurisdiction of this Court in the premises.

2.

[fol. 98] Answering the allegations of paragraph II of the complaint, entitled "Parties," the Commission admits all of the allegations therein except for the last subparagraph, and in answer thereto the Commission admits that the plaintiffs were interveners in opposition in the described proceeding before the Commission but denies that the motor carrier plaintiffs as well as the motor-carrier members of plaintiffs American Trucking Associations, Inc., and its Regular Common Carrier Conference will be adversely affected or will sustain continuing or irreparable injuries unless the Commission's report and order of November 22, 1954 (Appendix A to the complaint) are suspended, enjoined, annulled, and set aside.

3.

Answering the allegations of paragraph III of the complaint, entitled "Statement of the Case," the Commission admits that an application was filed before it on October 26, 1951, in the Commission's docket No. MC–29130 (Sub No. 70) by The Rock Island Motor Transit Company, which is a wholly-owned motor carrier subsidiary of the Chicago, Rock Island and Pacific Railroad Company, which application, as amended on March 7, 1952, sought authority from the defendant Commission as a common carrier by motor vehicle as described on pages 91 and 92 of the Commission's report of November 22, 1954, attached as Appendix A to the complaint of the plaintiffs; the Commission avers that hearings were held on such application on fourteen different days during the periods from March 18 through April 1, 1952, and from May 20 through May 22, 1952, at Des Moines, Iowa; the Commission admits that its Examiner's recommended report and order were served on April 21, 1953, that after the filing of exceptions and replies thereto, oral argument was had before the entire Com-[fol. 98a] mission at Washington, D. C., on March 8, 1954, that on November 22, 1954, the Commission rendered its report and order as set forth in Appendix A to the complaint of the plaintiffs, that the plaintiffs herein on February 16, 1955, filed with the Commission a petition for recon-

sideration of said report and order, that said petition for reconsideration was denied by the Commission by order of July 6, 1955, which was served July 14, 1955, and that Appendix B to the complaint of the plaintiffs is a true copy of that order as served; the Commission avers, however, that a Corrected Order denying said petition for reconsideration was issued under date of July 6, 1955, which was served on July 27, 1955, and that a true and correct copy of such corrected order is attached hereto and marked Appendix A to this answer; and the Commission admits that the plaintiffs have exhau ted their administrative remedy before the Commission, that a certificate of public convenience and necessity as authorized by the report and order of November 22, 1954, will be issued by the Commission unless the report and order of November 22, 1954, are suspended, enjoined, annulled and set aside and the issuance of the certificate to the applicant is enjoined by this Court. The Commission hereby informs the Court that no certificate will be issued to the Rock Island Motor Transit Company in its Docket No. MC-29130 (Sub No. 70) pending final decree of this Court in this action. For answer to the last sentence of the first subparagraph of paragraph III of the complaint, the Commission denies that statement as alleged, and particularly denies that the application in question was granted without qualification, and respectfully refers the Court to the text of the report and order of November 22, 1954, for a correct statement of the decision of the Commission on the application filed in Docket No. MC-29130 (Sub No. 70).

4.

[fol. 99] Answering the allegations of paragraph IV of the complaint, the Commission denies the allegations therein contained, and particularly denies that in making and issuing the report and order of November 22, 1954, and in denying reconsideration thereof by the corrected order of July 6, 1955, it exceeded its powers and authorities delegated by law, and denies that it erred as to matters of fact or matters of law in any of the particulars set forth in subparagraphs (a) to (r), inclusive, of said paragraph IV of the complaint, or in any other particulars whatsoever.

5.

Further answering the complaint of the plaintiffs, the Commission avers that its report and order of November 22, 1954, and its corrected order of July 6, 1955, denying reconsideration thereof were within the scope of the statutory powers and authority delegated to it by the Interstate Commerce Act, and particularly within sections 207(a) and 208(a) thereof (49 U.S.C. 307(a) and 308(a)), and avers that its findings and conclusions therein were and are fully supported and justified by substantial evidence in the record made before the Commission in the proceeding in Docket No. MC-29130 (Sub No. 70); and the Commission further avers that in making and in denying reconsideration of the report of November 22, 1954, it gave careful consideration to the National Transportation Policy and to all of the contentions called to its attention in said proceeding by counsel for the plaintiffs, that the said report and orders were and are not unreasonable, arbitrary, capricious, discriminatory, or in abuse of discretion, and that no constitutional or statutory rights, powers, privileges, or immunities belonging to the plaintiffs, or either of them, [fol. 100] were infringed in any manner by said report and orders of the Commission.

WHEREFORE, having fully answered the complaint of the plaintiffs, the defendant, the Interstate Commerce Commission, prays that the relief sought in the complaint be denied and that the complaint be dismissed.

s/ James Y. Piper, Assistant General Counsel, Interstate Commerce Commission, 12th St. and Constitution Ave., N.W., Washington 25, D.C.

s/ Samuel R. Howell, Acting General Counsel, Interstate Commerce Commission, Of Counsel.

[fol. 101] APPENDIX "A" TO ANSWER OF I.C.C.

BEFORE THE INTERSTATE COMMERCE COMMISSION

No. MC-29130 (Sub. No. 70)

THE ROCK ISLAND MOTOR TRANSIT COMPANY—COMMON CARRIER APPLICATION (Des Moines, Iowa)

No. MC-29130 (Sub. No. 2)

ROCK ISLAND MOTOR TRANSIT COMPANY EXTENSION OF OPERATIONS—SILVIS—CHICAGO, ILL.

CORRECTED ORDER—July 6, 1955

Upon consideration of the records in the above-entitled proceedings, and of:

(1) Petition of Railway Labor Executives' Association, for leave to intervene and for reconsideration, dated February 16, 1955;
(2) Petition of protestant motor carriers, American Trucking Associations, Inc., and the Regular Common Carrier Conference thereof, for reconsideration of the report of the Commission herein, dated February 16, 1955;
(3) Reply (resistance) of applicant and interveners in (2) above;
(4) Petition of applicant and certain interveners for interpretation of present certificate in No. MC-29130 (Sub. No. 2), or, in the alternative, for modification of the report of the Commission in the title proceeding, dated May 16, 1955;
(5) Reply of protestant motor carriers, American Trucking Associations, Inc., and the Regular Common Carrier Conference thereof, to (4) above, dated May 26, 1955;
(6) Reply of Railway Labor Executives' Association, to (4) above, dated May 26, 1955;

and good cause appearing therefor:

It is ordered, That the Railway Labor Executives' Association be, and it is hereby, permitted to intervene in said

proceedings with the right to appear and participate in all further proceedings therein, and that its petition in all other respects be, and it is hereby, denied, for the reason set forth in the next succeeding paragraph;

It is further ordered, That the petition in (2) above be, and it is hereby, denied, for the reason that the evidence adequately justifies the conclusions and findings in the report and order of November 22, 1954;

It is further ordered, That the petition in (4) above be, and it is hereby denied, for the reason that the relief sought is not warranted.

By the Commission.

Harold D. McCoy, Secretary.

(Seal)

[fol. 102] CERTIFICATE OF SERVICE (omitted in printing)

[fol. 103] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Title omitted]

ANSWER OF THE UNITED STATES—Filed September 16, 1955

Comes now the defendant the United States of America, and for its answer to the complaint of plaintiffs filed in the above-entitled cause, admits, denies and alleges as hereinafter set forth:

1. Admits the allegations of Paragraph I of the complaint.

2. Admits the allegations of Paragraph II of the complaint, except that this defendant denies that the motor carrier plaintiffs named in the caption of the complaint, as well as the motor carrier members of plaintiffs American Trucking Association, Inc., and its Regular Common Carrier Conference, will be adversely affected or sustain continuing or irreparable injuries unless the report and order of November 22, 1954, issued by the defendant Interstate

Commerce Commission are suspended, enjoined, annulled or set aside.

3. Admits the allegations of Paragraph III of the complaint, except that this defendant denies that the Chicago, [fol. 104] Rock Island and Pacific Railway Company, through its wholly owned motor carrier subsidiary, The Rock Island Motor Transit Company, sought authority from the defendant Interstate Commerce Commission to engage in "all-out trucking operations" in competition with its train service and with the service of independent motor carriers between the points mentioned in said Paragraph III; and except that this defendant denies the characterization and epitomization of the report and order of the defendant Commission of November 22, 1954, as set forth in the sixth sentence of said Paragraph III, and respectfully refers to said report and order for a full and complete statement of the operating authority which they grant and the terms upon which the same is granted.

4. Denies each and every allegation contained in Paragraph IV of the complaint, and particularly and categorically denies that the defendant Interstate Commerce Commission in making the report and order, of which a copy is annexed to the complaint as Exhibit A, and in denying reconsideration thereof by its order of July 6, 1955, of which a copy is annexed to the complaint as Exhibit B, exceeded its power and authority delegated under law or erred as a matter of fact or as a matter of law in the particulars set forth in sub-paragraphs (a) to (r), inclusive, of said Paragraph IV.

5. This defendant alleges that all of the parties to the proceedings before the defendant Interstate Commerce Commission were given a full and complete hearing; that the findings and conclusions contained in the report dated November 22, 1954, and the order entered on the same date, and the order denying the petition for reconsideration entered July 6, 1955, were and are fully supported and justified by the evidence submitted in said proceedings; that in making said report the defendant Commission carefully considered the National Transportation Policy and considered and weighed carefully, in the light of its own knowl- [fol. 105] edge and experience, each fact, circumstance and

condition called to its attention on behalf of the parties to said proceedings by their respective counsel or otherwise; that said report and orders were not made or entered either arbitrarily or unjustly or contrary to law; that in making said report and orders the defendant Commission did not exceed the authority conferred upon it by law; and this defendant denies each and every allegation contained in the complaint in conflict with the allegations of this paragraph; and, except as expressly admitted in this answer, this defendant denies each and all of the allegations of the complaint.

WHEREFORE, having fully answered, this defendant, the United States of America, prays that the relief sought in the complaint be denied and that the complaint be dismissed with cost-, assessed against the plaintiffs, and that it have such other, further and different relief as to the Court may seem meet, just and equitable in the premises.

s/ James E. Kilday, s/ Charles S. Sullivan, Jr.,
Special Assistants to the Attorney General.

Stanley N. Barnes, Assistant Attorney General, Leo A. Rover, United States Attorney, Attorneys for the Defendant the United States of America.

[fol. 106] CERTIFICATE OF SERVICE (omitted in printing)

[fol. 107] [File endorsement omitted]

[fol. 108] IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Title omitted]

MOTION OF RAILWAY LABOR EXECUTIVES' ASSOCIATION TO INTERVENE AS PLAINTIFFS—Filed September 16, 1955

Now comes the Railway Labor Executives' Association, comprised of the eighteen standard national and inter-

national railway labor organizations listed below, and moves the Court for leave to intervene as plaintiffs in the above-captioned case. In support thereof movants state that:

I

Movants Railway Labor Executives' Association are a voluntary unincorporated association, with which are affiliated the following standard national and international railway labor organizations:

Switchmen's Union of North America
Order of Railroad Telegraphers
American Train Dispatchers' Association
Railway Employes' Department, A. F. of L.
International Association of Machinists
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers
Sheet Metal Workers' International Association
International Brotherhood of Electrical Workers
Brotherhood Railway Carmen of America
International Brotherhood of Firemen & Oilers
Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes
Brotherhood of Maintenance of Way Employes
Brotherhood of Railroad Signalmen of America
International Organization Masters, Mates & Pilots of America
National Marine Engineers' Beneficial Association
Hotel & Restaurant Employees and Bartenders International Union
Railroad Yardmasters of America
Brotherhood of Sleeping Car Porters
Brotherhood of Locomotive Firemen & Enginemen

[fol. 109] The principal office of the Association is located at 10 Independence Avenue, S. W., Washington, D.C.

II

Certain of the labor organizations listed above who are members of the Railway Labor Executives' Association,

are the duly designated representatives under the Railway Labor Act for purposes of collective bargaining of employees of the Chicago, Rock Island and Pacific Railroad Company and have agreements with said company concerning rates of pay, rules and working conditions of such employees. The Rock Island Motor Transit Company, a wholly-owned subsidiary of said Railroad, was an applicant before the Interstate Commerce Commission in the proceeding known as *The Rock Island Motor Transit Company Common Carrier Application* (Docket No. MC–29130, Sub-No. 70) which involved a request of the motor trucking company for the removal of certain restrictions on its certificates of public convenience and necessity which were designed to make the trucking operations auxiliary and subsidiary to the rail operations of the parent Rock Island & Pacific Railway Company. The granting of such request by the Interstate Commerce Commission adversely affects employees represented by the movants since it enables the Railroad to substitute truck service for rail service in certain areas to the consequent injury of rail operations and jobs of railroad employees represented by labor organizations affiliated with movants. In order to protect the employees of the Rock Island & Pacific Railroad from these adverse effects, the movants petitioned the Interstate Commerce Commission for leave to intervene as parties in opposition to the application of the Rock Island Motor Transit Company. The petition of the movants Railway Labor Executives' Association was granted (Appendix B of Complaint). The orders under review in the subject court case granting the application of the Rock Island Motor Transit Company were entered in such Commission proceedings on November 22, 1954 and July 6, 1955 (Appendices A and B of Complaint). Movants clearly [fol. 110] have a substantial interest in the Court's action with respect to said orders not represented by any other party in the case.

III

Movants ask to intervene as parties plaintiff in the subject case pursuant to Sec. 2323 of the Judicial Code

(28 U.S.C. 2323); Rule 24 of the Federal Rules of Civil Procedure; section 10(a) of the Administrative Procedure Act (5 U.S.C. 1009(a)); and section 205(g) of the Interstate Commerce Act (49 U.S.C. 305(g)).

28 U.S.C.A. 2323 provides that any party in interest to a proceeding before the Commission in which an order is made may appear as a party of his own motion and as of right in any court action involving the validity of such order and the interest of such party. The present case involves the validity of an order of the Interstate Commerce Commission entered in a proceeding in which movants were admitted as a party in interest and affects such interest of movants. The movants therefore have a clear legal right to intervene in the present case.

Rule 24 of the Federal Rules of Civil Procedure permits intervention in an action in a Federal District Court (1) when a statute of the United States confers a right to intervene, or (2) when the representation of the applicant's interest by existing parties is inadequate and the applicant is or may be bound by a judgment in the action. 28 U.S.C.A. 2323, quoted above, gives movants a right to intervene in the present proceedings. In addition, the movants' interest as representatives of employees of the Rock Island Railroad is not represented by the present parties plaintiff while a judgment in favor of the defendants will have a binding effect upon such employees and their representatives.

Section 10(a) of the Administrative Procedure Act (5 U.S.C. 1009(a)) provides that, except as statutes preclude judicial review or agency action is by law committed to agency discretion, any person suffering legal wrong because of any agency action or adversely affected or aggrieved by such action within the meaning of any relevant statute, shall be entitled to judicial review thereof. On the basis of the facts set forth above, movants come within [fol. 111] the purview of this section.

The orders of the Interstate Commerce Commission involved in the present court proceedings were entered in part pursuant to Part II of the Interstate Commerce Act (49 U.S.C. 305). Paragraph (g) of that section makes any

final order of the Commission under such Part II subject to the same right of relief in court by "any party in interest" as is now provided in respect to orders of the Commission under Part I of the Interstate Commerce Act. The movants are clearly a party in interest with respect to the orders of the Commission involved in the present proceedings. Sec. 17(11) of the Interstate Commerce Act recognizes the interests of labor organizations representing employees in proceedings arising under the Interstate Commerce Act by providing that such organizations may intervene and be heard in any proceeding arising under the Act affecting such employees. This provision is made applicable to proceedings under Part II of the Interstate Commerce Act by Paragraph (h) of that section. Clearly movants are a party in interest within the meaning of such section.

IV

The granting of this motion will not broaden the issues herein nor unduly delay or prejudice the adjudication of the rights of the original parties.

WHEREFORE, the Railway Labor Executives' Association prays that it be permitted to intervene as plaintiffs herein and that it be granted leave to file the Complaint attached hereto.

Respectfully submitted, s/ Clarence M. Mulholland, 741 National Bank Building, Toledo 4, Ohio, s/ Edward J. Hickey, Jr., s/ William G. Mahoney, s/ James L. Highsaw, Jr., 620 Tower Building, Washington 5, D.C., Attorneys for the Railway Labor Executives' Association.

Of Counsel, Mulholland, Robie & Hickey, 741 National Bank Building, Toledo 4, Ohio.

September 16, 1955.

[fol. 112] CERTIFICATE OF SERVICE (omitted in printing).

[fol. 115] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Title omitted]

COMPLAINT OF RAILWAY LABOR EXECUTIVES' ASSOCIATION— Filed October 24, 1955

Comes now the Railway Labor Executives' Association, comprised of eighteen national and international railway labor organizations, intervening plaintiffs in the above-captioned case, and for their cause of action against defendants complain and allege as follows:

I

JURISDICTIONAL STATEMENT

1. This action is brought to suspend, enjoin, annul, and set aside orders of the defendant Interstate Commerce Commission dated November 22, 1954 and July 6, 1955, in an administrative proceeding before that Commission designated as "*The Rock Island Motor Transport Company Common Carrier Application*", Docket No. MC-29130 (Sub-No. 70). A copy of said orders and the accompanying report of the Commission, made a part thereof, are attached to the Complaint filed in this case on July 20, 1955 by the American Trucking Associations, Inc., *et al.*, and designated Appendices A and B. These orders and accompanying report are incorporated herein by reference and made a part hereof. The corrected order of July 6, 1955 is attached hereto as Appendix 1. This Complaint is filed pursuant to provisions of Title 49, United States Code, Section 205(g), Title 28, United States Code, Sections 1336, 1398, 2284, and 2321-2325, and Section 10 of the Administrative Procedure Act, 5 U.S.C., Section 1009.

[fol. 116] 2. The jurisdiction and venue of this Court is established by the above-cited provisions of the United States Code, Title 28, which includes the requirement of a three-judge court to hear and determine the action.

II

Parties

3. The intervening plaintiffs, the Railway Labor Executives' Association, are a voluntary unincorporated association with which are affiliated the following standard national and international railway labor organizations:

Switchmen's Union of North America
Order of Railroad Telegraphers
American Train Dispatchers' Association
Railway Employes' Department, A. F. of L.
International Association of Machinists
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers
Sheet Metal Workers' International Association
International Brotherhood of Electrical Workers
Brotherhood Railway Carmen of America
International Brotherhood of Firemen & Oilers
Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes
Brotherhood of Maintenance of Way Employes
Brotherhood of Railroad Signalmen of America
International Organization Masters, Mates & Pilots of America
National Marine Engineers' Beneficial Association
Hotel & Restaurant Employees and Bartenders International Union
Railroad Yardmasters of America
Brotherhood of Sleeping Car Porters
Brotherhood of Locomotive Firemen & Enginemen

4. The principal place of business of the Association is located in the District of Columbia at 10 Independence Avenue, S.W.

5. Certain of the labor organizations listed in Paragraph No. 3 above, which are members of the Railway Labor Executives' Association, are the duly designated collective bargaining representatives under the Railway Labor Act for most of the employees of the Chicago, Rock Island and Pacific Railroad Company, the parent company of the Rock Island Motor Transit Company, and have

agreements with said railroad carrier concerning rates of pay, rules and working conditions of such employees. Said [fol. 117] agreements confer upon such employees valuable property rights in relation to their employment. By virtue of the foregoing the intervening plaintiffs represent the interests of said employees.

6. The United States of America is made a defendant in this Complaint pursuant to the provisions of Section 2322 of Title 28 of the United States Code.

III

Nature of the Case

7. The Chicago, Rock Island and Pacific Railroad Company, through its wholly-owned motor carrier subsidiary, the Rock Island Motor Transit Company, filed with the Interstate Commerce Commission an application under Section 207 of the Interstate Commerce Act (49 U.S.C., Section 307) for authority to engage in unrestricted motor carrier operations between Chicago, Illinois, and Omaha, Nebraska, including service to and from the intermediate points of Moline, Illinois, Iowa City, and Cedar Rapids, Iowa, among others. All of the above-named points were being served at the time of the application by the Rock Island Motor Transit Company pursuant to an authorization from the Interstate Commerce Commission which limited such operations to service which was auxiliary to and supplemental of the train service of the parent railroad company. This application resulted in the report and orders of the Commission referred to in Paragraph No. 1 above, which grants the application for unrestricted motor carrier operations, subject only to the conditions that there may be attached from time to time to the authority granted such reasonable terms, conditions and limitations as the public convenience and necessity may require, and that the contractual arrangements between the motor carrier company and the parent railroad company be subject to revision to assure their being fair and equitable to the parties. By these orders the Rock Island Motor Transit Company is authorized in substance to operate an unre- [fol. 118] stricted motor carrier service along routes paral-

leling the tracks of the parent Chicago, Rock Island and Pacific Railroad Company, to the detriment of the rail operations of that company and of the employees thereof.

8. The Commission issued its initial order in the proceedings before it on November 12, 1954. The intervening plaintiffs were granted permission by the Commission to intervene in the proceedings before the Commission and urge that agency to reconsider its action and condition the authority granted the Rock Island Motor Transit Company so as to effectively make the motor carrier operations auxiliary to and supplemental of the train operations of the parent railroad company (Appendix 1 hereto). The Commission, in its order dated July 6, 1955, denied reconsideration of its prior order on the ground that the evidence adequately justified the conclusions and findings in its report and order of November 22, 1954 (Appendix 1 hereto).

9. The intervening plaintiffs have exhausted their administrative remedies before the Interstate Commerce Commission and the certificate of public convenience and necessity authorized by the report and orders of the Commission on November 22, 1954 and July 6, 1955 will be issued by the Commission and operations performed thereunder to the injury of the employees represented by the intervening plaintiffs unless such report and orders are suspended, enjoined, annulled, and set aside, and issuance of a certificate authorized thereunder be enjoined or, if issued, be declared invalid.

IV

Allegations of Error

10. The report and orders of the Interstate Commerce Commission of November 22, 1954 and July 6, 1955, referred to above, are illegal and void for the following reasons:

(a) Said orders erroneously interpret Section 5(2)(b) of the Interstate Commerce Act (49 U.S.C. 5(2)(b)) as au- [fol. 119] thorizing the Commission to approve transactions subject thereto in which a motor carrier owned or controlled by a railroad carrier and subject to Part I of the Interstate Commerce Act, is an applicant, without requir-

ing that the operations of the motor carrier subsidiary be restricted to service which is auxiliary and supplemental to the rail operations of the parent railroad company.

(b) Said orders failed to comply with the requirements of Section 5(2)(b) (49 U.S.C. 5(2)(b)) that the Commission must condition orders entered thereunder in which a motor carrier owned or controlled by a rail carrier is an applicant so as to restrict the operating authority of the subsidiary motor carrier to trucking operations which will enable the railroad carrier to use the service by motor vehicle to public advantage in its rail operations and will not unduly restrain competition.

(c) Said orders erroneously interpret Section 207 of the Interstate Commerce Act (49 U.S.C. 307) as authorizing the Commission to issue certificates of public convenience and necessity to a motor carrier which is wholly owned or controlled by a railroad carrier, without conditioning such certificates so as to require that the motor carrier operations effectively be auxiliary and supplemental to the rail operations of the parent railroad company.

(d) Said orders erroneously conclude that the statutory authority of the Commission to impose terms and conditions on a grant of a certificate of public convenience and necessity pursuant to Section 207 of the Interstate Commerce Act (49 U.S.C. 307) is derived entirely from Section 208 of said Code (49 U.S.C. 308) without reference to Section 5(2)(b) of said Act (49 U.S.C. 5(2)(b)).

(e) Said orders erroneously interpret the authority of the Interstate Commerce Commission as permitting the Commission to issue orders in transactions subject to Section 5(2)(b) (49 U.S.C. 5(2)(b)) involving applicants who are wholly-owned subsidiaries of railroad carriers permitting motor carrier operations by the motor carrier sub-
[fol. 120] sidiary which are unrestricted except for the reservation of jurisdictions by the Commission to impose in the future limitations, restrictions and modifications that may appear necessary.

(f) Said orders erroneously interpret the authority of the Interstate Commerce Commission as permitting the Commission to issue orders, in transactions subject to Section 207 (49 U.S.C. 307) involving applicants who are

wholly-owned subsidiaries of railroad carriers permitting motor carrier operations by the motor carrier subsidiary which are unrestricted except for the reservation of jurisdictions by the Commission to impose in the future limitations, restrictions and modifications that may appear necessary.

11. The report and orders of the Interstate Commerce Commission dated November 22, 1954 and July 6, 1955, referred to in Paragraph No. 1 above, are, in the particulars set forth in Paragraph No. 10, based on an erroneous and improper and illegal construction of the Interstate Commerce Act, as amended, and are contrary to the requirements of the statute, in excess of the Commission's statutory powers, and amount to an abuse of the Commission's authority and discretion.

V

Injury

12. The intervening plaintiffs and the employees represented by them are threatened with irreparable injury by the erroneous and unlawful actions of the Interstate Commerce Commission as enumerated in Paragraph No. 10 above, in that they are subject to loss of employment, displacement and other economic detriment if the Commission's orders are allowed to stand.

VI

Prayer for Relief

Wherefore, intervening plaintiffs respectfully pray:

First: That, as provided by Section 2284 of Title 28, United States Code, this Court immediately notify the [fol. 121] Chief Judge of the United States Court of Appeals for the District of Columbia Circuit who shall designate two other judges, at least one of whom shall be a circuit judge, to serve as members of a three-judge court to hear and determine this action.

Second: That process issue against the defendant, the United States of America; that service of a copy of the complaint be made upon the Attorney General of the United

States, the United States Attorney for the District of Columbia, and the Interstate Commerce Commission; and that after answer by the defendants and after not less than five days' notice to the parties the application herein be given precedence and assigned for hearing at the earliest practicable day as provided by Section 2284 of Title 28, United States Code.

Third: That upon hearing of this action, judgment issue enjoining, annulling and setting aside as unlawful and void the challenged report and orders of the Interstate Commerce Commission dated November 22, 1954, and July 6, 1955, as corrected July 6, 1955.

Fourth: That the intervening plaintiffs be given such other, further, general and different relief as the nature of the case may require and as the Court may deem just and proper.

Respectfully submitted, s/ Clarence M. Mulholland, 741 National Bank Building, Toledo 4, Ohio, s/ Edward J. Hickey, Jr., s/ William G. Mahoney, s/ James L. Highsaw, Jr., 620 Tower Building, Washington 5, D.C., Attorneys for the Railway Labor Executives' Association.

Of Counsel, Mulholland, Robie & Hickey, 741 National Bank Building, Toledo 4, Ohio

September 16, 1955

[fol. 122] APPENDIX 1 TO COMPLAINT

BEFORE THE INTERSTATE COMMERCE COMMISSION

CORRECTED ORDER—July 6, 1955 [Omitted. Printed side page 101 ante]

[fol. 123] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Civil Action No. 3171-55

AMERICAN TRUCKING ASSOCIATIONS, INC., 1424 Sixteenth Street, N.W., Washington 6, D. C.; REGULAR COMMON CARRIER CONFERENCE, 1424 Sixteenth Street, N.W., Washington 6, D. C.; IOWA-NEBRASKA TRANSPORTATION COMPANY, Avoca, Ill.; DES MOINES TRANSPORTATION COMPANY, INC., 201 S.E. 6th St., Des Moines, Iowa; BRUCE MOTOR FREIGHT, INC., 2011 Eastern Blvd., Des Moines, Iowa; WESTERN TRANSPORTATION COMPANY, 1300 W. 25th St., Chicago, Ill.; McCOY TRUCK LINES, INC., 1525 Grandview Ave., Waterloo, Iowa; BRADY TRANSFER AND STORAGE COMPANY, 443 S.W. 6th St., Des Moines, Iowa; MOTOR CARGO, INC., 700 Carroll St., Akron, O.; GATEWAY TRANSPORTATION COMPANY, 2130 South Ave., LaCrosse, Wisc.; BOS TRUCK LINES, INC., 408 S. 12th Ave., Marshalltown, Iowa, Plaintiffs,

v.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, Washington 25, D. C., Defendants

TRAFFIC BUREAUS of and/or CHAMBERS OF COMMERCE OF DAVENPORT, Iowa City, Cedar Rapids, Newton, Des Moines, Atlantic, Harlan, Ottumwa and Mason City, Iowa; SHIPPERS' COMMITTEE composed of: Paul Monroe, President of Monroe Company, Colfax, Iowa; A. C. Holmdahl; President of Mid-West Stamping Company, Kellogg, Iowa; P. H. Kuyper, President of Rol Screen Company, Pella, Iowa; Sharp Lannon, General Manager, Grinnell Shoe Company, Grinnell, Iowa; G. L. Engle, Traffic Manager, Wind Power Manufacturing Company, Newton, Iowa; R. L. Cocklin, Vice-President, Laco-Oil Burner Company, Griswold, Iowa; C. C. Vieth, general merchandise, Oakland, Iowa; and EMPLOYEES' COMMITTEE OF ROCK ISLAND MOTOR TRANSIT COMPANY composed of: John F. Morrison, Dan Quinn, Ross Johnson, Lillian McKenna and P. J. Doyle, Intervenors

PETITION OF INTERVENTION AND ANSWER TO COMPLAINT BY INTERVENORS, TRAFFIC BUREAUS OF AND/OR CHAMBERS OF COMMERCE OF DAVENPORT, IOWA, ET AL.
—Filed September 19, 1955

COME NOW the above named parties and persons as Intervenors, and state and show the Court as follows:

BASIS FOR INTERVENTION

Par. 1. That the above named Intervenors were participants and parties of record in the proceedings before the Interstate Commerce Commission, in Docket No. MC-29130, sub. No. 70, the Rock Island Motor Transit Company [fol. 124] Common Carrier Application, as Intervenors in support of said Application and are interested in sustaining the Order of the Interstate Commerce Commission entered therein and which the Plaintiffs herein are seeking to annul, set aside and enjoin the Report and Order of the aforesaid Commission entered in said proceedings on the 22nd day of November, 1954, and the Order of the Commission dated July 6, 1955.

Par. 2. That these Intervenors intervene in the above entitled cause pursuant to Title 28, Section 2323 USC.

ANSWER

That the aforesaid Intervenors, for Answer to the Complaint filed herein on or about the 29th day of July, 1955, state and show the Court as follows:

Par. 1. Intervenors admit the jurisdictional statement contained in Paragraph one (1) of Plaintiffs' Complaint.

Par. 2. Intervenors admit the identity of the parties set forth in Paragraph two (2) of said Complaint and concede that they appeared as Intervenors in opposition in the proceedings before the Interstate Commerce Commission in Docket No. MC-29130 (Sub. 70), The Rock Island Motor Transit Company Common Carrier Application, but specifically deny that said Plaintiffs or any persons or parties represented by them which constitute a class represented by said Plaintiffs are or will be adversely affected by the Report and Order of November 22, 1954, of the Interstate

Commerce Commission, Appendix A, to Plaintiffs' Complaint, or that any of said persons or parties or any persons or parties represented by them or forming a class or part of class represented by said Plaintiffs will sustain or suffer any injury or damage of any kind or character by reason of the aforesaid Report and Order sought to be suspended, enjoined, annulled and set aside in this cause.

[fol. 125] Par. 3. Intervenors admit the allegations contained in Paragraph three (3), Statement of the Case, in Plaintiffs' Complaint.

Par. 4. Intervenors specifically deny that the Defendant, Interstate Commerce Commission, in making and issuing the Report and Order complained of, (Appendix A of the Complaint), and in denying reconsideration thereof by Order of July 6, 1955, (Appendix B of the Complaint) exceeded its powers and authority or that it erred as a matter of fact or as a matter of law in any way or manner.

For further Answer thereto, these Intervenors state and show to the Court that the Defendant, Interstate Commerce Commission, had jurisdiction of the parties and subject matter involved in the proceedings before it and was vested under Part two (2) of the Interstate Commerce Act with power and authority to make the Report and enter the Order it did on the aforesaid Application of The Rock Island Motor Transit Company, Docket No. MC-29130, Sub. 70.

Further answering Paragraph four (4) of said Complaint and particularly the specifically alleged errors, Paragraphs A to R, inclusive, these Intervenors state:

(a) Intervenors specifically deny each and every allegation contained in each and all of said alleged errors.

(b) For further answer, Intervenors state that the findings of the Interstate Commerce Commission in the granting to The Rock Island Motor Transit Company in Docket No. MC-29130, Sub. 70, the right to operate as a common carrier by motor vehicle was fully sustained by the record evidence in accordance with Part two (2) of the Interstate Commerce Act.

[fol. 126] (c) That the record evidence conclusively established that the services proposed by the Rock Island Motor Transit Company in Docket No. MC-29130, sub. 70, did

promote the public convenience and necessity and was in the public interest and that it was mandatory upon the Commission, under Section 207 of Part 2 of the Interstate Commerce Act to grant said Application and issue the authority requested to the Rock Island Motor Transit Company.

(d) That the Report and Orders of the Interstate Commerce Commission assailed by the Plaintiffs herein were in conformity with and not contrary to the National Transportation Policy or of Sections 5(2)(b) and 207 of the Interstate Commerce Act.

(e) Further answering the alleged specifications of error in the Report and Order of the Interstate Commerce Commission assailed in Paragraph four (4) of Plaintiffs' Complaint, these Intervenors state that the sole issue involved and question to be determined by the Interstate Commerce Commission, were the transportation needs and requirements of the territory and communities to be served by The Rock Island Motor Transit Company in the aforesaid Application, and these Intervenors as representatives of such territory and communities state and show the Court that the record evidence conclusively establishes that the transportation needs and requirements of such territory and communities could only be served and fulfilled by the granting of the aforesaid Application of the Rock Island Motor Transit Company as an unrestricted motor carrier of general commodities.

(f) Further answering Paragraph four (4) of Plaintiffs' Complaint and particularly sub-paragraph M thereof, these Intervenors show the Court that the record evidence conclusively establishes that the granting of authority to the Rock Island Motor Transit Company will not result [fol. 127] in restraint of competition or be detrimental to the public interest in any respect, but in fact will provide a transportation need not otherwise provided by any existing carriers.

WHEREFORE, Intervenors, aforesaid, having fully answered Plaintiffs' Complaint, pray that this Court upon hearing find that said Complaint is without merit and further find and determine that the Report and Orders of the Interstate Commerce Commission sought to be enjoined

and set aside are fully sustained by the record evidence, and lawful and within the power vested in said Commission under Part two (2) of the Interstate Commerce Act.

Intervenors further pray that judgment be entered in favor of the Defendant and that the Report and Orders of the Interstate Commerce Commission be in all particulars sustained and confirmed.

Further Intervenors pray for such other and further Orders as may be just, equitable and proper in the premises.

(Sgd) D. C. Nolan, 405 Iowa State Bank Building, Iowa City, Iowa; Attorney for Intervenors, Traffic Bureaus of and/or Chambers of Commerce of Davenport, Iowa City, Cedar Rapids, Newton, Des Moines, Atlantic, Harlan, Ottumwa, and Mason City, Iowa; Shippers' Committee composed of Paul Monroe, President of Monroe Company, Colfax, Iowa; A. C. Holmdahl, President of Mid-West Stamping Company, Kellogg, Iowa; P. H. Kuyper, President of Rol Screen Company, Pella, Iowa; Sharp Lannon, General Manager, Grinnell Shoe Company, Grinnell, Iowa; G. L. Engle, Traffic Manager, Wind Power Mfg. Company, Newton, Iowa; R. L. Cocklin, Vice-President, Laco-Oil Burner Company, Griswold, Iowa; C. C. Vieth, General Merchandise, Oakland, Iowa; and Employees' Committee of Rock Island Motor Transit Company composed of: John F. Morrison, Dan Quinn, Ross Johnson, Lillian McKenna and P. J. Doyle.

(Sgd) Arthur L. Winn, Jr., 743 Investment Building, Washington, D. C., Of Counsel for Intervenors.

[fol. 128] Certificate of Service (omitted in printing).

[fol. 129] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Title omitted]

APPLICATION FOR DESIGNATION OF THREE-JUDGE COURT—Filed September 26, 1955

Plaintiffs ask that the Court request the Chief Judge of the United States Court of Appeals for the District of Columbia Circuit (or, in his absence the senior Judge present) to designate a three-judge court in this cause.

Respectfully submitted, s/ Fritz R. Kahn, Roland Rice, Peter T. Beardsley, Attorneys for Plaintiffs.

[fol. 130] [File endorsement omitted]

[fol. 131] IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Title omitted]

MOTION OF BROTHERHOOD OF RAILROAD TRAINMEN AND ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN OF AMERICA TO INTERVENE AS PLAINTIFFS—Filed October 3, 1955

Now come the Brotherhood of Railroad Trainmen and the Order of Railway Conductors and Brakemen of America, standard railway labor organizations, and move the Court for leave to intervene as plaintiffs in the above-captioned case. In support thereof movants state that:

I.

Movants, the Brotherhood of Railroad Trainmen and Order of Railway Conductors and Brakemen of America, are voluntary unincorporated associations and are two of the standard railway labor organizations of the country. The principal office and place of business of the former is Cleveland, Ohio. The principal office and place of business of the latter is Cedar Rapids, Iowa.

II.

Movants are the duly designated representatives under the Railway Labor Act for purposes of collective bargaining of certain of the employees of the Chicago, Rock Island and Pacific Railroad Company and have agreements with said company concerning rates of pay, rules and working conditions of such employees. The Rock Island Motor Transit Company, a wholly owned subsidiary of said Railroad, [fol. 132] was an applicant before the Interstate Commerce Commission in the proceeding known as *The Rock Island Motor Transit Company Common Carrier Application* (Docket No. MC–29130, Sub-No. 70), which involved a request of the motor trucking company for the removal of certain restrictions on its certificates of public convenience and necessity which were designed to make the trucking operations auxiliary and subsidiary to the rail operations of the parent Rock Island & Pacific Railway Company. The granting of such request by the Interstate Commerce Commission adversely affects employees represented by the movants since it enables the Railroad to substitute truck service for rail service in certain areas to the consequent injury of rail operations and jobs of railroad employees represented by movants. In order to protect the employees of the Rock Island & Pacific Railroad from these adverse effects, the movants petitioned the Interstate Commerce Commission for leave to intervene as parties in opposition to the application of the Rock Island Motor Transit Company. The petition of the movants was granted (Appendix 2 of Complaint attached hereto). The orders under review in the subject court case granting the application of the Rock Island Motor Transit Company were entered in such Commission proceedings on November 22, 1954 and July 6, 1955 (Appendices A and B of original Complaint of American Trucking Associations, et al.). The order denying movants' petition for reconsideration was entered by the Commission on September 9, 1955 and received by movants September 28, 1955. Movants clearly have a substantial interest in the Court's action with respect to said orders not represented by any other party in the case.[1]

[1] They are not affiliated with the Railway Labor Executives' Association as intervenor in the case.

III.

Movants ask to intervene as parties plaintiff in the subject case pursuant to Sec. 2323 of the Judicial Code (28 [fol. 133] U.S.C. 2323); Rule 24 of the Federal Rules of Civil Procedure; section 10(a) of the Administrative Procedure Act (5 U.S.C. 1009(a)); and section 205(g) of the Interstate Commerce Act (49 U.S.C. 305(g)).

28 U.S.C. 2323 provides that any party in interest to a proceeding before the Commission in which an order is made may appear as a party on his own motion and as of right in any court action involving the validity of such order and the interest of such party. The present case involves the validity of orders of the Interstate Commerce Commission entered in a proceeding in which movants were admitted as parties in interest and affects such interest of movants. The movants therefore have a clear legal right to intervene in the present case.

Rule 24 of the Federal Rules of Civil Procedure permits intervention in an action in a Federal District Court (1) when a statute of the United States confers a right to intervene, or (2) when the representation of the applicant's interest by existing parties is inadequate and the applicant is or may be bound by a judgment in the action. 28 U.S.C. 2323, quoted above, gives movants a right to intervene in the present proceedings. In addition, the movants' interest as representatives of employees of the Rock Island Railroad is not represented by the present parties plaintiff while a judgment in favor of the defendants will have a binding effect upon such employees and their representatives.

Section 10(a) of the Administrative Procedure Act (5 U.S.C. 1009(a)) provides that, except as statutes preclude judicial review or agency action is by law committed to agency discretion, any person suffering legal wrong because of any agency action or adversely affected or aggrieved by such action within the meaning of any relevant statute, shall be entitled to judicial review thereof. On the basis of the facts set forth above, movants come within the purview of this section.

The orders of the Interstate Commerce Commission involved in the present court proceedings purported to be

entered in part pursuant to Part II of the Interstate [fol. 134] Commerce Act (49 U.S.C. 305). Paragraph (g) of that section makes any final order of the Commission under such Part II subject to the same right of relief in court by "any party in interest" as is now provided in respect to orders of the Commission under Part I of the Interstate Commerce Act. The movants are clearly parties in interest with respect to the orders of the Commission involved in the present proceedings. Sec. 17(11) of the Interstate Commerce Act recognizes the interests of labor organizations representing employees in proceedings arising under the Interstate Commerce Act by providing that such organizations may intervene and be heard in any proceeding arising under the Act affecting such employees. This provision is also made applicable to proceedings under Part II of the Interstate Commerce Act by Paragraph (h) of that section. Clearly movants are parties in interest within the meaning of such section.

IV.

The granting of this motion will not broaden the issues herein nor unduly delay or prejudice the adjudication of the rights of the original parties.

WHEREFORE, the Brotherhood of Railroad Trainmen and the Order of Railway Conductors and Brakemen of America pray that they be permitted to intervene as plaintiffs herein and that they be granted leave to file the Complaint attached hereto.

Respectfully submitted, Clarence M. Mulholland, 741 National Bank Building, Toledo 4, Ohio, Edward J. Hickey, Jr., s/ William G. Mahoney, s/ James L. Highsaw, Jr., 620 Tower Building, Washington 5, D. C., Attorneys for the Brotherhood of Railroad Trainmen and the Order of Conductors and Brakemen of America.

Of Counsel, Mulholland, Robie & Hickey, 741 National Bank Building, Toledo 4, Ohio

October 3, 1955

[fol. 135] CERTIFICATE OF SERVICE (omitted in printing)

[fol. 137] APPENDIX 1 TO MOTION

BEFORE THE INTERSTATE COMMERCE COMMISSION

CORRECTED ORDER—July 6, 1955 [Omitted. Printed side page 101 ante]

[fol. 138] [File endorsement omitted]

APPENDIX 2 TO MOTION

BEFORE THE INTERSTATE COMMERCE COMMISSION

ORDER—September 9, 1955

No. MC–29130 (Sub-No. 70)

THE ROCK ISLAND MOTOR TRANSIT COMPANY COMMON CARRIER APPLICATION
(Chicago, Ill.)

Upon consideration of the record in the above-entitled proceeding, and of:

(1) Petition of the Brotherhood of Railroad Trainmen, dated June 30, 1955, for leave to intervene;
(2) Petition of the Brotherhood of Railroad Trainmen, dated June 30, 1955, for reconsideration;
(3) Request of applicant for waiver of Rule 23 and reply to both petitions, filed July 22, 1955;
(4) Petition of the Order of Railway Conductors and Brakemen of America, dated August 17, 1955, for leave to intervene;

and good cause appearing therefor:

It is ordered, That said petitioners, the Brotherhood of Railroad Trainmen and the Order of Railway Conductors

and Brakemen of America, be, and they are hereby, permitted to intervene in said proceeding with the right to appear and participate in all further proceedings herein;

It is further ordered, That said late-tendered reply of applicant be, and it is hereby, filed;

It is further ordered, That said petition for reconsideration in (2) above be, and it is hereby, denied, for the reason that other petitions seeking like relief were denied on July 6, 1955.

By the Commission.

Harold D. McCoy, Secretary.

(Seal)

[fol. 140] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Civil Action No. 3171–55

[Title omitted]

COMPLAINT OF BROTHERHOOD OF RAILROAD TRAINMEN AND THE ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN OF AMERICA—Filed October 24, 1955

Come now the Brotherhood of Railroad Trainmen and the Order of Railway Conductors and Brakemen of America, standard railway labor organizations and intervening plaintiffs in the above-captioned case, and for their cause of action against defendants complain and allege as follows:

I.

Jurisdictional Statement

1. This action is brought to suspend, enjoin, annul, and set aside orders of the defendant Interstate Commerce Commission dated November 22, 1954, July 6, 1955, and September 9, 1955, in an administrative proceeding before

that Commission designated as *"The Rock Island Motor Transport Company Common Carrier Application"*, Docket No. MC-29130 (Sub-No. 70). A copy of said orders and the accompanying report of the Commission, made a part thereof, are attached to the Complaint filed in this case on July 20, 1955 by the American Trucking Associations, Inc., et al., and designated Appendices A and B. These orders and accompanying report are incorporated herein by reference and made a part hereof. The corrected order of July 6, 1955 is attached hereto as Appendix 1, and the order of September 9, 1955 is attached as Appendix 2. This Complaint is filed pursuant to provisions of Title 49, United [fol. 141] States Code, Section 205(g), Title 28, United States Code, Sections 1336, 1398, 2284, and 2321-2325, and Section 10 of the Administrative Procedure Act, 5 U.S.C., Section 1009.

2. The jurisdiction and venue of this Court is established by the above-cited provisions of the United States Code, Title 28, which includes the requirement of a three-judge court to hear and determine the action.

II.

Parties

3. The intervening plaintiffs are voluntary unincorporated associations.

4. The principal place of business of the Brotherhood of Railroad Trainmen is Cleveland, Ohio. The principal place of business of the Order of Railway Conductors and Brakemen of America is Cedar Rapids, Iowa.

5. Movants are the duly designated collective bargaining representatives under the Railway Labor Act for certain employees of the Chicago, Rock Island and Pacific Railroad Company, the parent company of the Rock Island Motor Transit Company, and have agreements with said railroad carrier concerning rates of pay, rules and working conditions of such employees. Said agreements confer upon such employees valuable property rights in relation to their employment. By virtue of the foregoing the intervening plaintiffs represent the interests of said employees.

6. The United States of America is made a defendant

in this Complaint pursuant to the provisions of Section 2322 of Title 28 of the United States Code.

[fol. 142] III.

Nature of the Case

7. The Chicago, Rock Island and Pacific Railroad Company, through its wholly-owned motor carrier subsidiary, the Rock Island Motor Transit Company, filed with the Interstate Commerce Commission an application under Section 207 of the Interstate Commerce Act (49 U.S.C., Section 307) for authority to engage in unrestricted motor carrier operations between Chicago, Illinois, and Omaha, Nebraska, including service to and from the intermediate points of Moline, Illinois, Iowa City, and Cedar Rapids, Iowa, among others. All of the above-named points were being served at the time of the application by the Rock Island Motor Transit Company pursuant to an authorization from the Interstate Commerce Commission which limited such operations to service which was auxiliary to and supplemental of the train service of the parent railroad company. This application resulted in the report and orders of the Commission referred to in Paragraph No. 1 above, which grants the application for unrestricted motor carrier operations, subject only to the conditions that there may be attached from time to time to the authority granted such reasonable terms, conditions and limitations as the public convenience and necessity may require, and that the contractual arrangements between the motor carrier company and the parent railroad company be subject to revision to assure their being fair and equitable to the parties. By these orders the Rock Island Motor Transit Company is authorized in substance to operate an unrestricted motor carrier service along routes paralleling the tracks of the parent Chicago, Rock Island and Pacific Railroad Company, to the detriment of the rail operations of that company and of the employees thereof.

8. The Commission issued its initial order in the proceedings before it on November 12, 1954. The intervening plaintiffs were granted permission by the Commission to intervene in the proceedings before the Commission and

[fol. 143] urge that agency to reconsider its action and condition the authority granted the Rock Island Motor Transit Company so as to effectively make the motor carrier operations auxiliary to and supplemental of the train operations of the parent railroad company (Appendix 2 hereto). The Commission, in its order dated July 6, 1955, denied reconsideration of its prior order on the ground that the evidence adequately justified the conclusions and findings in its report and order of November 22, 1954 (Appendix 1 hereto). In its order of September 9, 1955, the Commission denied movants' petition for reconsideration of its prior action by reference to its order of July 6, 1955 (Appendix 2 hereto).

9. The intervening plaintiffs have exhausted their administrative remedies before the Interstate Commerce Commission and the certificate of public convenience and necessity authorized by the report and orders of the Commission on November 22, 1954, July 6, 1955, and September 9, 1955 will be issued by the Commission and operations performed thereunder to the injury of the employees represented by the intervening plaintiffs unless such report and orders are suspended, enjoined, annulled, and set aside, and issuance of a certificate authorized thereunder be enjoined or, if issued, be declared invalid.

IV.

Allegations of Error

10. The report and orders of the Interstate Commerce Commission of November 22, 1954, July 6, 1955, and September 9, 1955, referred to above, are illegal and void for the following reasons:

(a) Said orders erroneously interpret Section 5(2)(b) of the Interstate Commerce Act (49 U.S.C. 5(2)(b)), applicable to Docket No. MC-29130 (Sub-No. 70), as authorizing the Commission to approve transactions subject thereto in which a motor carrier owned or controlled by a railroad carrier and subject to Part I of the Interstate [fol. 144] Commerce Act, is an applicant, without requiring that the operations of the motor carrier subsidiary be

restricted to service which is auxiliary and supplemental to the rail operations of the parent railroad company.

(b) Said orders failed to comply with the requirements of Section 5(2)(b) (49 U.S.C. 5(2)(b)), applicable to the proceeding in which the orders were entered, that the Commission must condition orders in which a motor carrier owned or controlled by a rail carrier is an applicant so as to restrict the operating authority of the subsidiary motor carrier to trucking operations which will enable the railroad carrier to use the service by motor vehicle to public advantage in its rail operations and will not unduly restrain competition.

(c) Said orders erroneously interpret Section 207 of the Interstate Commerce Act (49 U.S.C. 307) as authorizing the Commission to issue certificates of public convenience and necessity to a motor carrier which is wholly owned or controlled by a railroad carrier without conditioning such certificates so as to require that the motor carrier operations effectively be auxiliary and supplemental to the rail operations of the parent railroad company.

(d) Said orders erroneously conclude that the statutory authority of the Commission to impose terms and conditions on a grant of a certificate of public convenience and necessity pursuant to Section 207 of the Interstate Commerce Act (49 U.S.C. 307) is derived entirely from Section 208 of said Code (49 U.S.C. 308) without reference to Section 5(2)(b) of said Act (49 U.S.C. 5(2)(b)).

(e) Said orders erroneously interpret the authority of the Interstate Commerce Commission as permitting the Commission to issue orders in transactions subject to Section 5(2)(b) (49 U.S.C. 5(2)(b)) involving applicants who are wholly owned subsidiaries of railroad carriers such as here involved permitting motor carrier operations by the motor carrier subsidiary which are unrestricted except [fol. 145] for the reservation of jurisdictions by the Commission to impose in the future limitations, restrictions and modifications that may appear necessary.

(f) Said orders erroneously interpret the authority of the Interstate Commerce Commission as permitting the Commission to issue orders in transactions subject to Section 207 (49 U.S.C. 307) involving applicants who are

wholly owned subsidiaries of railroad carriers permitting motor carrier operations by the motor carrier subsidiary which are unrestricted except for the reservation of jurisdictions by the Commission to impose in the future limitations, restrictions and modifications that may appear necessary.

11. The report and orders of the Interstate Commerce Commission dated November 22, 1954, July 6, 1955, and September 9, 1955, referred to in Paragraph No. 1 above, are, in the particulars set forth in Paragraph No. 10, based on an erroneous and improper and illegal construction of the Interstate Commerce Act, as amended, and are contrary to the requirements of the statute, in excess of the Commission's statutory powers, and amount to an abuse of the Commission's authority and discretion.

V.

Injury

12. The intervening plaintiffs and the employees represented by them are threatened with irreparable injury by the erroneous and unlawful actions of the Interstate Commerce Commission as enumerated in Paragraph No. 10 above, in that they are subject to loss of employment, displacement and other economic detriment if the Commission's orders are allowed to stand.

VI.

Prayer for Relief

WHEREFORE, intervening plaintiffs respectfully pray:

First: That, as provided by Section 2284 of Title 28, United States Code, this Court immediately notify the Chief Judge of the United States Court of Appeals for [fol. 146] the District of Columbia Circuit who shall designate two other judges, at least one of whom shall be a circuit judge, to serve as members of a three-judge court to hear and determine this action.

Second: That process issue against the defendant, the United States of America; that service of a copy of the complaint be made upon the Attorney General of the

United States, the United States Attorney for the District of Columbia, and the Interstate Commerce Commission; and that after answer by the defendants and after not less than five days' notice to the parties the application herein be given precedence and assigned for hearing at the earliest practicable day as provided by Section 2284 of Title 28, United States Code.

Third: That upon hearing of this action, judgment issue enjoining, annulling and setting aside as unlawful and void the challenged report and orders of the Interstate Commerce Commission dated November 22, 1954, July 6, 1955, as corrected July 6, 1955, and September 9, 1955.

Fourth: That the intervening plaintiffs be given such other, further, general, and different relief as the nature of the case may require and as the Court may deem just and proper.

Respectfully submitted, s/ Clarence M. Mulholland, 741 National Bank Building, Toledo 4, Ohio, s/ Edward J. Hickey, Jr., s/ William G. Mahoney, s/ James L. Highsaw, Jr., 620 Tower Building, Washington 5, D. C., Attorneys for the Brotherhood of Railroad Trainmen and the Order of Railway Conductors and Brakemen of America.

Of Counsel, Mulholland, Robie & Hickey, 741 National Bank Building, Toledo 4, Ohio.

October 3, 1955.

[fol. 147] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Title omitted]

DESIGNATION OF JUDGES TO SERVE ON THREE-JUDGE DISTRICT COURT—September 30, 1955

The Honorable David A. Pine, United States District Judge for the District of Columbia, having notified me that a complaint to enjoin the enforcement of and set aside orders of the Interstate Commerce Commission has been

filed in said Court; now, therefore, pursuant to the provisions of Section 2284 and Section 2325 of Title 28 of the United States Code, I hereby designate the Honorable E. Barrett Prettyman, United States Circuit Judge for the District of Columbia Circuit, and the Honorable Alexander Holtzoff, United States District Judge for the District of Columbia, to serve with the Honorable David A. Pine, United States District Judge for the District of Columbia, as members of the court to hear and determine this action.

David L. Bazelon, Acting Chief Judge of the District of Columbia Circuit.

Dated: September 30 1955

[fol. 147a] In United States District Court

Notice Setting Case for Trial—December 15, 1955

Clerk's Office
United States District Court for the
District of Columbia
Washington 1, D. C.

October 12, 1955

Mr. William Mahoney
Tower Building
Washington, D. C.

Re:
American Trucking Associations, Inc., et al vs. United States of America, et al,
Civil Action No. 3171-55

Dear Mr. Mahoney:

You are advised that the Court has allowed counsel until December 10, 1955 to file briefs in the above-entitled cause.

A hearing in this case has been set for December 15, 1955, at 10:00 A.M. in the Courtroom of Judge David A.

Pine, Courtroom Number 9, of the United States District Court for the District of Columbia.

Very truly yours,

HARRY M. HULL, Clerk

By

Deputy Clerk

ej

[fol. 147b] IN UNITED STATES DISTRICT COURT

October 25, 1955

Mr. Fritz Kahn
American Trucking Association
1424 16th Street, NW
Washington, D. C.

In re: American Trucking Asso. v.
U. S. A., et al,
C. A. No. 3171-55

Dear Sir:

Please be advised that the Court has agreed to devote the entire day to the presentation of the above entitled case, if necessary. Counsel are to divide the time between them. If you cannot agree on a division of time, the Court will fix it.

Be further advised that the hearing will commence at 10:30 A. M., December 15, 1955 in the courtroom of Judge Pine.

Very truly yours,

s/ RICHARD L. COLLINS
Assignment Commissioner

RLC/bd
cc: Judge Pine
Mr. Arthur Winn, Investment Bldg.
Mr. William G. Mahoney, Tower Bldg.
Mr. James Piper, Interstate Commerce Commission
Mr. Charles Sullivan, Department of Justice

[fol. 148] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Title omitted]

ORDER GRANTING INTERVENTION OF RAILWAY LABOR EXECUTIVES' ASSOCIATION—October 24, 1955

On September 16, 1955, the Railway Labor Executives' Association filed a motion asking that they be permitted to intervene as party plaintiffs in the subject case and be granted leave to file a complaint, the original of which was attached to the motion and lodged with the Clerk.

No objections have been filed to this motion, and it appears that the movants are entitled to intervene in the case pursuant to applicable statutes and rules of this court.

IT IS THEREFORE ORDERED that the motion of the Railway Labor Executives' Association to intervene as plaintiffs in the subject proceeding be and it is hereby granted and the Clerk of the Court be and hereby is directed to file the complaint of the Association now lodged with the Clerk.

David A. Pine, United States District Judge.

October 24, 1955

[fol. 149] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Title omitted]

ORDER GRANTING INTERVENTION OF BROTHERHOOD OF RAILROAD TRAINMEN, ET AL—October 24, 1955

On October 3, 1955, the Brotherhood of Railroad Trainmen and Order of Railway Conductors and Brakemen of America filed a motion asking that they be permitted to intervene as parties plaintiff in the subject case and be

granted leave to file a complaint, the original of which was attached to the motion and lodged with the Clerk.

No objections have been filed to this motion, and it appears that the movants are entitled to intervene in the case pursuant to applicable statutes and rules of this Court.

IT IS THEREFORE ORDERED that the motion of the Brotherhood of Railroad Trainmen and Order of Railway Conductors and Brakemen of America to intervene as plaintiffs in the subject proceeding be and it is hereby granted and the Clerk of the Court be and hereby is directed to file the complaint of the movants now lodged with the Clerk.

David A. Pine, United States District Judge.

October 24, 1955.

[fol. 149a] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Title omitted]

ORDER GRANTING INTERVENTION OF ROCK ISLAND MOTOR TRANSIT COMPANY—October 26, 1955

On August 26, 1955, Rock Island Motor Transit Company filed a motion asking that it be permitted to intervene as party defendant in the subject case and be granted leave to file answer to the complaint, the original of which answer was attached to the motion and lodged with the Clerk.

No objections have been filed to this motion, and it appears that the movant is entitled to intervene in the case pursuant to applicable statutes and rules of this Court.

IT IS THEREFORE ORDERED that the motion of Rock Island Motor Transit Company to intervene as defendant in the subject proceeding be and it is hereby granted and the Clerk of the Court be and hereby is directed to file the answer of the company now lodged with the Clerk.

David A. Pine, United States District Judge.

[fol. 149b] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Title omitted]

ORDER GRANTING INTERVENTION OF THE CHAMBERS OF COMMERCE, ETC.; ET AL.—October 27, 1955

On September 16, 1955, the Chambers of Commerce and Traffic Bureaus of Davenport, Iowa City, Cedar Rapids, Newton, Des Moines, Atlanta, Harlan, and Mason City, Iowa; Shippers' Committee composed of Paul Monroe, A. C. Holmdahl, P. H. Kuyper, Sharp Lannon, G. L. Engle, R. L. Cocklin, and C. C. Vieth; and Employees' Committee of Rock Island Motor Transit Company composed of John F. Morrison, Dan Quinn, Ross Johnson, Lillian McKenna, and P. J. Doyle, filed a petition that they be permitted to intervene as parties defendant in the subject case and be granted leave to file an answer, the original of which was attached to the petition and lodged with the Clerk.

No objections have been filed to this petition, and it appears that the movants are entitled to intervene in the case pursuant to applicable statutes and rules of this Court.

IT IS THEREFORE ORDERED that the petition of the movants named in the first paragraph of this order to intervene in the subject proceeding be and it is hereby granted and the Clerk of the Court be and hereby is directed to file the answer of said parties now lodged with the Clerk.

David A. Pine, United States District Judge.

Consented to:

For the United States of America, Charles S. Sullivan, Jr.

For the Interstate Commerce Commission, Robert W. Ginnane.

For Plaintiffs American Trucking Associations, Inc., et al., Peter T. Beardsley.

For Intervening Plaintiffs Brotherhood of Railroad Trainmen and Order of Railway Conductors and Brakemen

of America, and Railway Labor Executives' Association, William G. Mahoney.

[fol. 150] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Title omitted]

ANSWER OF UNITED STATES OF AMERICA TO COMPLAINT IN INTERVENTION OF RAILWAY LABOR EXECUTIVES' ASSOCIATION—Filed November 16, 1955

Comes now the defendant the United States of America, and for its answer to the complaint of Railway Labor Executives Association, intervener as plaintiff herein, filed in the above-entitled cause, admits, denies and alleges as hereinafter set forth:

I

Admits the allegations contained in Paragraphs 1, 2, 3, 4, 5, and 6 of the complaint in intervention.

II

Admits the allegations contained in Paragraph 7 of the complaint in intervention, except that this defendant denies the interpretation placed upon the report and orders of the defendant Interstate Commerce Commission and refers to the copies of the report and orders as attached to the original complaint filed by American Trucking Associations, Inc., and designated therein as Appendices A and B, [fol. 151] for a full and complete statement of the tenor and import of said report and orders; and except that this defendant denies that, by virtue of said orders, detriment will result to the rail operations of Chicago, Rock Island and Pacific Railroad Company and of the employees thereof; and on this point this defendant alleges that the intervening plaintiff, Railway Labor Executives' Association, failed to present any evidence of such detriment in the hearings before the defendant Interstate Commerce Commission.

III

Admits the allegations contained in Paragraph 8 of the complaint in intervention.

IV

Denies the allegations contained in Paragraph 9 of the complaint in intervention that injury will result to the employees represented by the intervening plaintiff unless said report and orders are suspended, annulled and set aside and issuance of a certificate authorized thereunder be enjoined or, if issued, be declared invalid.

V

Denies each and every allegation contained in Paragraph 10 of the complaint in intervention, and particularly and categorically denies that said report and orders of the defendant Interstate Commerce Commission of November 22, 1954 and July 6, 1955, are illegal and void for the reasons assigned in sub-paragraphs (a) to (f), inclusive, of said Paragraph 10, or for any other reason or reasons.

VI

Denies the allegations contained in Paragraphs 11 and 12 of the complaint in intervention.

[fol. 152] VII

This defendant alleges that all of the parties to the proceedings before the defendant Interstate Commerce Commission were given a full and complete hearing; that the findings and conclusions contained in the report dated November 22, 1954, and the order entered on the same date, and the order denying the petition for reconsideration entered July 6, 1955, were and are fully supported and justified by the evidence submitted in said proceedings; that in making said report the defendant commission carefully considered the National Transportation Policy and considered and weighed carefully, in the light of its own knowledge and experience, each fact, circumstance and condition called to its attention on behalf of the parties

[fol. 177] [File endorsement omitted]

Civil Action No. 3171–55

IN UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL., Plaintiffs

v.

UNITED STATES OF AMERICA and INTERSTATE COMMERCE COMMISSION, ET AL., Defendants

MEMORANDUM OPINION—January 11, 1956

Before PRETTYMAN, Circuit Judge, and PINE and HOLTZOFF, District Judges, sitting as a statutory three-judge court.

PRETTYMAN, *Circuit Judge*: The Chicago, Rock Island and Pacific Railroad Company is a through trunk-line railroad operating, so far as is here pertinent, across the State of Iowa from Davenport to Council Bluffs. It owns a subsidiary, called herein "Motor Transit", which owns operating rights and property as a motor carrier on routes paralleling or stemming from the Railroad route. The motor carrier certificates have heretofore contained limitations requiring that the motor service be auxiliary or supplementary to the rail service, but those limitations were stayed and have never been enforced. The motor carrier applied [fol. 178] for a certificate without the restrictions. The application was opposed by other motor carriers. After extensive proceedings the Interstate Commerce Commission granted the application, subject to the conditions that there might be attached such reasonable terms, conditions and limitations as the public convenience and necessity might require and that all contractual arrangements with the Railroad should be reported to the Commission and be subject to its revision. Petition for reconsideration having been denied, this action to set aside the order was brought by motor carriers operating in the same general area as Motor Transit.

to said proceedings by their respective counsel or otherwise; that said report and orders were not made or entered either arbitrarily or unjustly or contrary to law; that in making said report and orders the defendant Commission did not exceed the authority conferred upon it by law; and this defendant denies each and every allegation contained in the complaint in intervention in conflict with the allegations of this paragraph; and, except as expressly admitted in this answer, this defendant denies each and all of the allegations of the complaint in intervention.

WHEREFORE, having fully answered, this defendant, the United States of America, prays that the relief sought in the complaint in intervention be denied and that the complaint in intervention be dismissed with costs, assessed against the intervening plaintiff, and that it have such other, further and different relief as to the Court may seem meet, just and equitable in the premises.

Stanley N. Barnes, Assistant Attorney General, Leo A. Rover, United States Attorney, s/ James E. Kilday, s/ Charles S. Sullivan, Jr., Attorneys, Attorneys for the Defendant the United States of America.

[fol. 153] CERTIFICATE OF SERVICE (omitted in printing).

[fol. 154] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Title omitted]

ANSWER OF UNITED STATES OF AMERICA TO COMPLAINT IN INTERVENTION OF BROTHERHOOD OF RAILROAD TRAINME. AND ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN OF AMERICA—Filed November 16, 1955

Comes now the defendant the United States of America, and for its answer to the complaint of Brotherhood of

The nub of the controversy is in two parts, (1) whether the Commission has power to grant a certificate to a motor carrier wholly owned by a railroad without a restriction that the service shall be auxiliary or supplementary to the railroad service and (2), if so, whether the findings of the Commission to the effect that the public convenience and necessity justified the grant in the present case were supported by evidence in the record.

Two sections of the Interstate Commerce Act, as now amended, are involved. Section 5(2)(b)[1] provides that, whenever a carrier by railroad, or its subsidiary, is an applicant for approval of a transaction involving a motor carrier, the Commission shall not approve unless *if* finds, *inter alia,* that the transaction will enable the carrier to use service by motor vehicle to public advantage in its operations. This section governs the acquisition of motor [fol. 179] carriers by railroads. Section 207(a) of the Act[2] provides that a certificate shall be issued to any qualified applicant therefor if it is found, *inter alia,* that the proposed service is or will be required by the present or future public convenience and necessity. This latter section (207-(a)) does not contain the requirement which appears in the former section (5(2)(b)) that the proposed service must be used in the operation of the railroad if a railroad is the applicant. It is agreed that the requirement that the service be used in the operation of the railroad applicant means that the service must be auxiliary or supplementary to the rail service.

Plaintiffs say that the requirement which appears in Section 5(2)(b) must be read into Section 207(a) and therefore controls in the issuance of certificates where a railroad, or its subsidiary, is the applicant. The Commission says the requirement is notably omitted from the terms of Section 207(a); that the policy, not the terms, of the requirement applies to the issuance of certificates under 207(a). It says a policy requirement is not so rigid as a flat requirement in terms but is flexible and permits a grant

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[1] Formerly Sec. 213(a)(1), amended Aug. 2, 1949, 63 STAT. 485, 49 U.S.C.A. §5(2)(b).

[2] As enacted Aug. 9, 1935, 49 STAT. 551, 49 U.S.C.A. §307(a).

Railroad Trainmen and Order of Railway Conductors and Brakemen of America, interveners as plaintiffs herein, filed in the above-entitled cause, admits, denies and alleges as hereinafter set forth:

I

Admits the allegations contained in Paragraphs 1, 2, 3, 4, 5, and 6 of the complaint in intervention.

II

Admits the allegations contained in Paragraph 7 of the complaint in intervention, except that this defendant denies the interpretation placed upon the report and orders of the defendant Interstate Commerce Commission and refers to the copies of the report and orders as attached to [fol. 155] the original complaint filed by American Trucking Associations, Inc., and designated therein as Appendices A and B, for a full and complete statement of the tenor and import of said report and orders; and except that this defendant denies that, by virtue of said orders, detriment will result to the rail operations of Chicago, Rock Island and Pacific Railroad Company and of the employees thereof; and on this point this defendant alleges that the intervening plaintiffs, Brotherhood of Railroad Trainmen and Order of Railway Conductors and Brakemen of America, failed to present any evidence of such detriment in the hearings before the defendant Interstate Commerce Commission.

III

Admits the allegations contained in Paragraph 8 of the complaint in intervention.

IV

Denies the allegations contained in Paragraph 9 of the complaint in intervention that injury will result to the employees represented by the intervening plaintiffs unless said report and orders are suspended, annulled and set aside and issuance of a certificate authorized thereunder be enjoined or, if issued, be declared invalid.

V

Denies each and every allegation contained in Paragraph 10 of the complaint in intervention, and particularly and categorically denies that said report and orders of the defendant Interstate Commerce Commission of November 22, 1954, July 6, 1955, and September 9, 1955, are illegal and void for the reasons assigned in sub-paragraphs (a) to (f), inclusive, of said Paragraph 10, or for any other reason or reasons.

[fol. 156] VI

Denies the allegations contained in Paragraphs 11 and 12 of the complaint in intervention.

VII

This defendant alleges that all of the parties to the proceedings before the defendant Interstate Commerce Commission were given a full and complete hearing; that the findings and conclusions contained in the report dated November 22, 1954, and the order entered on the same date, and the order denying the petition for reconsideration entered July 6, 1955, and the order of September 9, 1955, were and are fully supported and justified by the evidence submitted in said proceedings; that in making said report the defendant Commission carefully considered the National Transportation Policy and considered and weighed carefully, in the light of its own knowledge and experience, each fact, circumstance and condition called to its attention on behalf of the parties to said proceedings by their respective counsel or otherwise; that said report and orders were not made or entered either arbitrarily or unjustly or contrary to law; that in making said report and orders the defendant Commission did not exceed the authority conferred upon it by law; and this defendant denies each and every allegation contained in the complaint in intervention in conflict with the allegations of this paragraph; and, except as expressly admitted in this answer, this defendant denies each and all of the allegations of the complaint in intervention.

in exceptional circumstances where the Commission finds that the public interest, convenience and necessity require the grant.

We agree with the contention of the Commission in the foregoing respect. The case concerns the issuance of a certificate.[3] Certainly the terms of the requirement as to auxiliary and supplementary service do not appear in Section 207(a). It is equally certain that the policy of the [fol. 180] requirement, being a basic policy in the statute, does apply. The difference between a rigid requirement and an applicable policy is one of flexibility and permits the Commission to be governed in exceptional circumstances by the needs of the public convenience and necessity.

This brings us to the second main part of the controversy. The traffic consists of intrastate traffic, rail originated traffic, and interstate "peddle" traffic. The rail originated traffic goes, through natural course of events, to Motor Transit. That service is largely auxiliary or supplementary to the train service and is not actually involved in the controversy. Certificates for the intrastate traffic are issued by the State of Iowa, and that State follows the usual rule of public utility regulation that where the business makes economically feasible only one carrier it will certificate only one. It has certificated Motor Transit for the intrastate traffic along the routes here involved, and so that traffic is not actually involved in the present controversy. The so-called interstate peddle operation is one in which the motor carrier, starting with a full truckload, moves interstate and distributes that load at various points of destination; or, in reverse, a truck picks up parts of loads at various points of origin and eventually transports interstate a full truckload. This is really the traffic which is involved in the pending case. The Commission found, in effect, that this peddle operation, standing alone, is not a profitable one and that the trend of motor carriers operating in Iowa has been to refrain from rendering this service;

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[3] See Interstate Commerce Comm'n v. Parker, 326 U.S. 60, 89 L.Ed. 2051, 65 S. Ct. 1490 (1945); United States v. Rock Island Co., 340 U.S. 419, 428, 431, 442, 95 L.Ed. 391, 71 S. Ct. 382 (1951); United States v. Texas & Pac. Co., 340 U.S. 450, 95 L.Ed. 509, 71 S.Ct. 422 (1951).

that the business communities along the routes need this sort of service; and that Motor Transit, already having rail originated and intrastate traffic, can readily render this additional service. As a matter of fact Motor Transit has [fol. 181] operated since its first acquisition in 1938 without the restrictions here in issue. During that period it satisfactorily performed this particular service. Actually the result of sustaining the motor carriers' position would be a privilege to them of giving the service now rendered by Motor Transit if they so desire and refusing to give it when it is economically not feasible. That would not appear to serve the public interest.

We think the position of the Commission is well taken on the evidence. Voluminous testimony was produced. The findings are extensive. The conclusion that the grant appears necessary in the public interest is well founded. Judgment will be rendered for the defendants.

s/ E. Barrett Prettyman, s/ David A. Pine, s/ Alexander Holtzoff.

Dated 1/11/56

[fol. 182] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Civil Action No. 3171-55

AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL., Plaintiffs

v.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, ET AL., Defendants

JUDGMENT—January 27, 1956

This action, to enjoin and set aside an order of the Interstate Commerce Commission, having come on for final hearing on December 15, 1955, before a duly constituted three-judge District Court, convened pursuant to Sections

WHEREFORE, having fully answered, this defendant, the United States of America, prays that the relief sought in the complaint in intervention be denied and that the com-[fol. 157] plaint in intervention be dismissed with costs, assessed against the intervening plaintiffs, and that it have such other, further and different relief as to the Court may seem meet, just and equitable in the premises.

Stanley N. Barnes, Assistant Attorney General, Leo A. Rover, United States Attorney, s/ James E. Kilday, s/ Charles S. Sullivan, Jr., Attorneys, Attorneys for the Defendant the United States of America.

[fol. 158] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Title omitted]

ANSWER OF INTERVENER ROCK ISLAND MOTOR TRANSIT COMPANY TO COMPLAINT IN INTERVENTION OF RAILWAY LABOR EXECUTIVES' ASSOCIATION— Filed November 17, 1955

Intervener Rock Island Motor Transit Company for answer to the complaint in intervention of Railway Labor Executives' Association states and shows the Court as follows:

1. This intervener admits the allegations of the paragraphs designated 1 and 2 of Division I of the complaint except that it alleges that its correct name is Rock Island Motor Transit Company and not Rock Island Transport Company.

2. This intervener admits the allegations in paragraphs designated 3, 4, 5 and 6 of Division II of the complaint in intervention except that this intervener alleges that the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees also represents employees of Rock Island Motor Transit Company and is

2284 and 2321-2325, Title 28, United States Code, consisting of the undersigned judges; and the Court having considered the pleadings and evidence, and the briefs and arguments of counsel for the respective parties; and being fully advised in the premises; and having on January 11, 1956, filed herein its opinion holding that the order of the Interstate Commerce Commission herein assailed is valid and that judgment will be rendered for defendants; now in accordance with the said opinion,

[fol. 183] IT IS HEREBY ORDERED, ADJUDGED AND DECREED That the relief sought herein be, and the same hereby is, denied, and judgment be, and the same hereby is, rendered for the defendants, with costs assessed against the plaintiffs and intervening plaintiffs.

This 27th day of January, 1956.

s/ E. Barrett Prettyman, United States Circuit Judge, s/ David A. Pine, United States District Judge, s/ Alexander Holtzoff, United States District Judge.

Approved as to form:

s/ Fritz R. Kahn, Attorney for American Trucking Associations, Inc., Regular Common Carrier Conference and Motor Carrier Plaintiffs.

s/ James L. Highsaw, Jr., Attorney for Railway Labor Executives' Association, Brotherhood of Railroad Trainmen and Order of Railway Conductors and Brakemen.

the duly designated collective bargaining representative under the Railway Labor Act for office and clerical em- [fol. 159] ployees by this intervener. This intervener alleges that under the Railway Labor Act it is the duty of said Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees to represent the best interests of its members who are employees of this intervener and that the best interests of said employees of this intervener who are members of said Brotherhood of Railway and Steamship Clerks will be in having the order of the Commission upheld and sustained.

3. This intervener admits it filed with the Interstate Commerce Commission an application under Section 207 of the Interstate Commerce Act for authority to engage in unrestricted motor carrier operations between Chicago, Illinois, and Omaha, Nebraska, including service to and from all intermediate points on U. S. Highway 6 between Silvis, Illinois, and Omaha, Nebraska, and certain other off-route points located on other highways including Cedar Rapids and Muscatine; denies that all of the named points were served at the time of the application by this intervener under authorization from the Interstate Commerce Commission which limited such operations to service auxiliary and supplemental to train service of the railroad company and alleges that this intervener continuously from and after April 1, 1938, served such points under authority issued by said Commission.

This intervener admits that the application resulted in a report and order of the Commission granting the application for unrestricted motor carrier operations between Silvis, Illinois, and Omaha, Nebraska, subject to the conditions referred to in paragraph 7 of the complaint in intervention. This intervener denies that said order results in any manner to the detriment of the rail operations of the Chicago, Rock Island and Pacific Railroad Company and the employees thereof.

[fol. 160] 4. This intervener alleges that the order of the Commission upon original submission was issued November 22, 1954, and admits that thereafter plaintiffs were granted permission by the Commission to intervene in the proceedings; admits that the Commission by its order dated July 6, 1955, denied reconsideration of its prior order.

5. This intervener admits that the intervening plaintiffs have exhausted their administrative remedies and that a certificate of public convenience and necessity in conformity to the report and orders of the Commission will be issued unless the order of the Commission be suspended, annulled or set aside as alleged in paragraph 9 of the complaint in intervention. This intervener denies that the issuance of a certificate to this intervener or operations thereunder will in any manner injure or damage the employees of Chicago, Rock Island and Pacific Railroad Company represented by the intervening plaintiffs and specifically alleges that the suspension and annulment of the order of the Commission will result in direct injury to employees of this intervener who are represented by the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees.

6. This intervener denies all and every allegation set forth in the paragraphs of the complaint in intervention designated as 10 and 11 embraced in Division IV of the complaint in intervention and alleges that the report and orders of the Interstate Commerce Commission are in accord with the statutes of the United States, are based upon substantial evidence and are in all respects lawful, proper and within the discretion of the Commission.

7. This intervener denies each, all and every allegation set forth in paragraph No. 12 of the complaint in inter- [fol. 161] vention and affirmatively alleges that the employees of this intervener who are employees of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees are subject to loss of employment, displacement and other economic detriment if the Commission's orders are set aside or annulled and that said organization is obligated to represent the best interests of said employees of this intervener under the terms and provisions of the Railway Labor Act.

8. This intervener for further answer to the complaint in intervention alleges that all parties to the proceeding before the Interstate Commerce Commission were given a full and complete hearing, that all findings and conclusions of the Commission were and are fully supported and justified by the evidence before the Commission in said proceed-

[fol. 184] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Title omitted]

NOTICE OF APPEAL BY AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL. TO THE SUPREME COURT OF THE UNITED STATES— Filed March 23, 1956

I

Notice is hereby given that American Trucking Associations, Inc., its Regular Common Carrier Conference, Iowa-Nebraska Transportation Company, Des Moines Transportation Company, Inc., Bruce Motor Freight, Inc., Western Transportation Company, McCoy Truck Lines, Inc., Brady Transfer and Storage Company, Motor Cargo, Inc., Gateway Transportation Company, and Bos Truck Lines, Inc., the plaintiffs above named, hereby appeal to the Supreme Court of the United States from the final judgment dismissing the complaint entered in this action on January 27, 1956.

This appeal is taken pursuant to 28 U.S.C.A. §1253.

II

The clerk will please prepare a transcript of the record in this cause for transmission to the clerk of the Supreme Court of the United States, and include in said transcript the following:

(a) Complaint of July 20, 1955, of plaintiffs, American Trucking Associations, et al., including Appendices A and B attached thereto, being the report and order, respectively, dated November 22, 1954, of the Interstate Commerce Commission in Docket No. MC–29130 (Sub-No. 70), *The Rock Island Motor Transit Company Common Carrier Application*;

(b) Motion of August 26, 1955, of Rock Island Motor Transit Company for leave to intervene as defendant, and answer (see Docket entry of October 26, 1955);

[fol. 184a] (c) Answer of September 15, 1955, of the Interstate Commerce Commission, including Appendix A, attached thereto, being the Commission's order dated July 6, 1955, in said Rock Island proceeding;

(d) Answer of September 16, 1955, of the United States of America;

(e) Motion of September 16, 1955, of Railway Labor Executives' Association for leave to intervene as plaintiff, and complaint (see Docket entry of October 24, 1955);

(f) Motion of September 19, 1955, of Chamber of Commerce of Davenport, et al., for leave to intervene as defendants, and answer (see Docket entry of October 27, 1955);

(g) Application of September 26, 1955, for designation of three-judge court;

(h) Motion of October 3, 1955, of Brotherhood of Railroad Trainmen and Order of Railway Conductors and Brakemen of America for leave to intervene as plaintiffs, and complaint, including Appendices 1 and 2, attached thereto, being the Commission's orders dated July 6, 1955, and September 9, 1955, respectively, in said *Rock Island* proceeding (See Docket entry of October 4, 1955);

(i) Order of October 4, 1955, signed September 30, 1955, convening a three-judge court for trial of the case;

(j) Order of October 24, 1955, granting leave to Railway Labor Executives' Association to intervene as plaintiff;

(k) Order of October 24, 1955, granting leave to Brotherhood of Railroad Trainmen and Order of Railway Conductors and Brakemen of America to intervene as plaintiffs;

(l) Motion of October 26, 1955, of Iowa State Commerce Commission for leave to intervene as defendant, and answer (See Docket entry of October 26, 1955);

(m) Order of October 26, 1955, granting leave to Rock Island Motor Transit Company to intervene as defendant;

(n) Order of October 26, 1955, granting leave to Iowa State Commerce Commission to intervene as defendant;

(o) Order of October 27, 1955, granting leave to Chamber of Commerce of Davenport, et al. to intervene as defendants;

(p) Answer of November 16, 1955, of the United States of America to complaint of intervener, Railway Labor Executives' Association;

ings; that in arriving at its findings and conclusions the Commission considered and carefully weighed in the light of its own knowledge and experience and the evidence, all facts, circumstances and conditions called to its attention in said proceeding; that in making and entering its report and orders defendant Commission acted within the authority conferred upon it by law and that said report and orders of the Commission were in all respects proper and in accord with the statutes of the United States.

WHEREFORE, having fully answered the complaint in intervention of Railway Executives' Association this intervener prays that the relief sought by the complaint in intervention be denied; that said complaint in intervention be dismissed; that the costs of the proceedings be assessed against the intervener Railway Labor Executives' Association and that the defendant and interveners on the side of defendants have such other and further relief as to the [fol. 162] Court may seem just and equitable in the premises.

s/ Arthur L. Winn, Jr., Wilbur La Roe, Jr., Samuel H. Moerman, Investment Building, Washington, D. C., Attorneys for Intervening Defendant.

A. B. Howland, J. H. Martin, 500 Bankers Trust Building, Des Moines, Iowa, Of Counsel

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CERTIFICATE OF SERVICE (omitted in printing).

[fol. 163] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Title omitted]

ANSWER OF INTERVENER ROCK ISLAND MOTOR TRANSIT COMPANY TO COMPLAINT IN INTERVENTION OF BROTHERHOOD OF RAILROAD TRAINMEN AND ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN OF AMERICA—Filed November 17, 1955

Intervener Rock Island Motor Transit Company for answer to the complaint in intervention of Brotherhood of Railroad Trainmen and Order of Railway Conductors and Brakemen of America states and shows the Court as follows:

1. This intervener admits the allegations of the paragraphs designated 1 and 2 of Division I of the complaint except that it alleges that its correct name is Rock Island Motor Transit Company and not Rock Island Transport Company.

2. This intervener admits it filed with the Interstate Commerce Commission an application under Section 207 of the Interstate Commerce Act for authority to engage in unrestricted motor carrier operations between Chicago, Illinois, and Omaha, Nebraska, including service to and from all intermediate points on U. S. Highway 6 between Silvis, Illinois, and Omaha, Nebraska, and certain other off-route points located on other highways including Cedar [fol. 164] Rapids and Muscatine, Iowa; denies that all of the named points were served at the time of the application by this intervener under authorization from the Interstate Commerce Commission which limited such operations to service auxiliary and supplemental to train service of the railroad company and alleges that this intervener continuously from and after April 1, 1938, served such points under authority issued by said Commission.

This intervener admits that the application resulted in a report and order of the Commission granting the appli-

(q) Answer of November 16, 1955, of the United States of America to complaint of interveners, Brotherhood of Railroad Trainmen and Order of Railway Conductors and Brakemen of America;

(r) Answer of November 17, 1955, of the intervener, [fol. 184b] Rock Island Motor Transit Company to complaint of intervener, Railway Labor Executives' Association;

(s) Answer of November 17, 1955, of the intervener, Rock Island Motor Transit Company to complaint of interveners, Brotherhood of Railroad Trainmen and Order of Railroad Conductors and Brakemen of America;

(t) Answer of November 19, 1955, of the Interstate Commerce Commission to complaint of intervener, Railway Labor Executives' Association;

(u) Answer of November 19, 1955, of the Interstate Commerce Commission to complaint of interveners, Brotherhood of Railroad Trainmen and Order of Railway Conductors and Brakemen of America;

(v) Notice setting the case for trial on December 15, 1955;

(w) Transcript of testimony, and exhibits, before the Interstate Commerce Commission in said *Rock Island* proceeding;

(x) Certified copy of proposed report, served April 21, 1953, of Examiner T. K. Carpenter of the Interstate Commerce Commission in said *Rock Island* proceeding;

(y) Opinion of January 11, 1956;

(z) Judgment of January 27, 1956; and

(aa) This notice of appeal.

III

The following questions are presented by this appeal:

1. Whether the record before the Interstate Commerce Commission in Docket No. MC-29130 (Sub-No. 70), *The Rock Island Motor Transit Company Common Carrier Application* supports the Commission's report (63 M.C.C. 91) and order of November 22, 1954, authorizing unrestricted motor carrier operations by the Rock Island Motor Transit Company, a wholly-owned subsidiary of the Chi-

cago, Rock Island and Pacific Railroad Company, throughout the entire territory served by the parent railroad?

2. Whether the Interstate Commerce Commission, after authorizing the performance of restricted motor-carrier service by a railroad affiliate over routes acquired by purchase under Section 5(2)(b) of the Interstate Commerce Act (49 U.S.C. §5(2)(b)) may void such restrictions and authorize the performance of an unlimited motor-carrier service over the same routes through approval of an application subsequently filed by the same rail affiliate under Section 207 of the Interstate Commerce Act (49 U.S.C. §307)?

3. Whether, in any event, the Interstate Commerce Commission, in authorizing the performance of motor-carrier service by railroads or their affiliates, is required by the [fol. 184c] provisions of the Interstate Commerce Act and the National Transportation Policy to limit the motor service to be rendered to that which is auxiliary to or supplemental of the rail service of the parent railroad?

Respectfully submitted,

Protestant Motor Carriers

Roland Rice, Eugene L. Cohn, Joseph E. Ludden, Stephen Robinson, Homer E. Bradshaw, Rex H. Fowler, Attorneys.

American Trucking Associations, Inc.

s/ Peter T. Beardsley, s/ Fritz R. Kahn, Attorneys.

Regular Common Carrier Conference

Roland Rice, Robert J. McBride, Albert B. Rosenbaum, John C. Bradley, Attorneys.

1424 Sixteenth Street, N. W., Washington, D. C.

Due: March 27, 1956

[fol. 184d] CERTIFICATE OF SERVICE (omitted in printing).

cation for unrestricted motor carrier operations between Silvis Illinois, and Omaha, Nebraska, subject to the conditions referred to in paragraph 7 of the complaint in intervention. This intervener denies that said order results in any manner to the detriment of the rail operations of the Chicago, Rock Island and Pacific Railroad Company and the employees thereof.

4. This intervener alleges that the order of the Commission upon original submission was issued November 22, 1954, and admits that thereafter plaintiffs were granted permission by the Commission to intervene in the proceedings; admits that the Commission by its order dated July 6, 1955, denied reconsideration of its prior order.

5. This intervener admits that the intervening plaintiffs have exhausted their administrative remedies and that a certificate of public convenience and necessity in conformity to the report and orders of the Commission will be issued unless the order of the Commission is suspended, annulled or set aside as alleged in paragraph 9 of the complaint in intervention. This intervener denies that the issuance of a certificate to this intervener or operations thereunder will in any manner injure or damage the employees of [fol. 165] Chicago, Rock Island and Pacific Railroad Company represented by the intervening plaintiffs.

6. This intervener denies all and every allegation set forth in the paragraphs of the complaint in intervention designated as 10 and 11 embraced in Division IV of the complaint in intervention and alleges that the report and orders of the Interstate Commerce Commission are in accord with the statutes of the United States, are based upon substantial evidence and are in all respects lawful, proper and within the discretion of the Commission.

7. This intervener denies each, all and every allegation set forth in paragraph 12 of the complaint in intervention.

8. This intervener for further answer to the complaint in intervention alleges that all parties to the proceeding before the Interstate Commerce Commission were given a full and complete hearing, that all findings and conclusions of the Commission were and are fully supported and justified by the evidence before the Commission in said proceedings; that in arriving at its findings and con-

[fol. 184e] [File endorsement omitted]

[fol. 184f] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Title omitted]

NOTICE OF APPEAL BY RAILWAY LABOR EXECUTIVES' ASSOCIATION TO THE SUPREME COURT OF THE UNITED STATES—Filed March 26, 1956

I.

Notice is hereby given that the Railway Labor Executives' Association, et al., intervening plaintiffs in the above captioned case, hereby appeal to the Supreme Court of the United States from the final judgment entered in this action on January 27, 1956, denying plaintiffs the relief sought therein and rendering judgment for the defendants.

This appeal is taken pursuant to 28 U.S.C., Section 1253.

[fol. 184g] II.

In a notice of appeal filed in this case on March 23, 1956, the plaintiffs, American Trucking Associations, Inc., et al., have requested the Clerk to prepare a transcript of the record in this cause for transmission to the Clerk of the Supreme Court of the United States and have designated the items for inclusion therein.

The intervening plaintiffs adopt such designation of record for purposes of appeal as their own and hereby incorporate it herein. In order to avoid sending two records to the Supreme Court covering the same items, the intervening plaintiffs, whose notice of appeal is hereby given, state that they will rely on appeal on the transcript of record in this cause which the plaintiffs, American Trucking Associations, Inc., et al., have already requested be transmitted to the Clerk of the Supreme Court of the United States. The intervening plaintiffs request that there be

clusions the Commission considered and carefully weighed in the light of its own knowledge and experience and the evidence, all facts, circumstances and conditions called to its attention in said proceedings; that in making and entering its report and orders defendant Commission acted within the authority conferred upon it by law and that said report and orders of the Commission were in all respects proper and in accord with the statutes of the United States.

WHEREFORE, having fully answered the complaint in intervention of Brotherhood of Railroad Trainmen and Order of Railway Conductors and Brakemen of America this intervener prays that the relief sought by the complaint in intervention be denied; that said complaint in intervention [fol. 166] be dismissed; that the costs of the proceeding be assessed against the intervener Brotherhood of Railroad Trainmen and Order of Railway Conductors and Brakemen of America and that the defendant and interveners on the side of defendants have such other and further relief as to the Court may seem just and equitable in the premises.

s/ Arthur L. Winn, Jr., Wilbur La Roe, Jr., Samuel H. Moerman, Investment Building, Washington, D. C., Attorneys for Intervening Defendant.

A. B. Howland, J. H. Martin, 500 Bankers Trust Building, Des Moines, Iowa. Of Counsel.

CERTIFICATE OF SERVICE (omitted in printing).

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included in the transmission to the Supreme Court this notice of appeal.

III.

The following questions are presented by this appeal:

1. Where the Interstate Commerce Commission has approved the acquisition of independent motor carriers and their operating rights by a wholly owned subsidiary of a railroad subject to restrictions on the operating rights thus acquired limiting the operations of the railroad subsidiary thereunder to services which are auxiliary to or supplemental of the railroad's train service in accordance with the requirements of the former Section 213 and present Section 5(2)(b) of the Interstate Commerce Act, does the Interstate Commerce Commission have authority thereafter to remove those restrictions without regard to the requirements of such sections of the statute and authorize the railroad subsidiary to operate an unrestricted motor carrier service over the same routes through the guise of a certificate proceeding under Section 207(a) of the Act? [fol. 184h] 2. Whether, in any event, the Interstate Commerce Commission, in authorizing the performance of motor carrier service by a railroad subsidiary, pursuant to either Section 5(2)(b) of the Interstate Commerce Act or Section 207(a) of such Act, is required by the provisions of the Interstate Commerce Act and the National Transportation Policy to limit such motor service to that which is auxiliary to or supplemental of the rail service of the parent.

Respectfully submitted, s/ Edw. J. Hickey, Jr., s/ James L. Highsaw, Jr., Clarence M. Mulholland, 620 Tower Building, Washington 5, D. C., Attorneys for Intervening Plaintiffs, National Labor Executives' Association, et al.

March 26, 1956.

[fol. 184i] Certificate of Service (omitted in printing).

[fol. 184k] Additional Certificate of Service (omitted in printing).

[fol. 167] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Title omitted]

ANSWER OF INTERSTATE COMMERCE COMMISSION TO COMPLAINT IN INTERVENTION BY RAILWAY LABOR EXECUTIVES' ASSOCIATION—Filed November 19, 1955

Comes now the defendant the Interstate Commerce Commission, hereinafter called the Commission, and for its answer to the complaint of Railway Labor Executives' Association, intervener as plaintiff herein, filed in the above-entitled cause on September 16, 1955, admits, denies and alleges as hereinafter set forth:

I.

Admits the allegations contained in Paragraphs 1, 2, 3, 4, 5, and 6 of the complaint in intervention.

[fol. 168] II.

Admits the allegations contained in Paragraph 7 of the complaint in intervention, except that the Commission denies the allegations of the second sentence of said Paragraph 7, and alleges that at the time of the filing of the application in question, on October 26, 1951, the points involved in said application were being served by, and are still being served by, The Rock Island Motor Transit Company pursuant to temporary authorization by the Commission, pending the outcome of the instant action, which temporary authority was and is subject to a maximum weight limitation of 2,000 pounds per shipment, later changed to 5,000 pounds per shipment, and subject to a restriction that no shipment may be transported by applicant between Chicago, Illinois, and Omaha, Nebraska, nor

[fol. 184l] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Title omitted]

ORDER AS TO CERTIFIED TRANSCRIPT, EXHIBITS AND PROPOSED REPORT—Filed March 27, 1956

This cause came on to be heard on motion of Peter T. Beardsley, attorney for plaintiffs (appellants), that the transcript of testimony and exhibits before the Interstate Commerce Commission and the proposed report, served April 21, 1953, of Examiner T. K. Carpenter of the Interstate Commerce Commission, as duly certified by the Secretary of the Interstate Commerce Commission, used at the hearing of the action, be sent to the Supreme Court of the United States in lieu of a copy thereof, and it appearing to the court that the certified transcript, exhibits and proposed report should be inspected by the Supreme Court of the United States,

IT IS ORDERED that the original transcript, exhibits and proposed report be forwarded to the Supreme Court as part of the record on appeal in lieu of copies thereof.

David A. Pine, Judge.

Dated: This 27th day of March, 1956.

[fol. 184m] Clerk's Certificate to foregoing transcript omitted in printing.

between any of the following points, or through, or to, or from, more than one of said points: Omaha, and collectively, Davenport, Bettendorf, Rock Island, Moline, and East Moline. The Commission further denies the interpretation placed by the intervening plaintiff in the fourth sentence of said Paragraph 7 upon the report and orders of the Commission and refers the Court to the copies of the report and orders as attached to the original complaint filed by American Trucking Associations, Inc., and designated therein as Appendices A and B, for a full and complete statement of the tenor and import of said report and orders. The Commission further denies that, by virtue of said orders, detriment will result to the rail operations of Chicago, Rock Island and Pacific Railroad Company [fol. 169] and of the employees thereof, on which point the Commission alleges that the intervening plaintiff, Railway Labor Executives' Association, failed to present any evidence of such detriment in the hearings before the Commission.

III.

Admits the allegations contained in Paragraph 8 of the complaint in intervention.

IV.

Denies the allegations contained in Paragraph 9 of the complaint in intervention that injury will result to the employees represented by the intervening plaintiff unless said report and orders are suspended, annulled and set aside and issuance of a certificate authorized thereunder be enjoined or, if issued, be declared invalid.

V.

Denies each and every allegation contained in Paragraph 10 of the complaint in intervention, and particularly and categorically denies that said report and orders of the Commission of November 22, 1954 and July 6, 1955, are illegal and void for the reasons assigned in sub-paragraphs (a) to (f), inclusive, of said Paragraph 10, or for any other reason or reasons.

[fol. 184n] SUPREME COURT OF THE UNITED STATES

No. 101 and 110, October Term, 1956

AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL., Appellants,

vs.

UNITED STATES OF AMERICA and INTERSTATE COMMERCE COMMISSION; and RAILWAY LABOR EXECUTIVES' ASSOCIATION et al., Appellants,

vs.

UNITED STATES OF AMERICA and INTERSTATE COMMERCE COMMISSION et al.

APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

ORDER NOTING PROBABLE JURISDICTION—Filed October 8, 1956

The statements of jurisdiction in these cases having been submitted and considered by the Court, probable jurisdiction is noted. The cases are consolidated and a total of two hours allowed for oral argument. Counsel in No. 110 are invited to discuss the issue of standing to sue.

[fol. 185] BEFORE THE
INTERSTATE COMMERCE COMMISSION

Docket No. MC–29130, Sub-No. 70.

In the Matter of the Application of THE ROCK ISLAND MOTOR TRANSIT CO., 135 West Van Buren Street, Chicago 5, Ill. Common Carrier, Regular Routes.

TRANSCRIPT OF PROCEEDINGS OF MARCH 18, 1952

Met pursuant to notice, at 9:30 a. m.

BEFORE:
T. K. Carpenter, Examiner.

ALSO PRESENT:
David B. Long, State Commerce Commission, State of Iowa, Member, Joint Board No. 136.

VI.

Denies the allegations contained in Paragraphs 11 and 12 of the complaint in intervention.

VII.

The Commission further avers that its report and order of November 22, 1954, and its corrected order of July 6, [fol. 170] 1955, denying the petition of the intervening plaintiff for reconsideration thereof were within the scope of the statutory powers and authority delegated to it by the Interstate Commerce Act, and particularly within sections 207(a) and 208(a) thereof (49 U.S.C. 307(a) and 308(a)), and avers that its findings and conclusions therein were and are fully supported and justified by substantial evidence in the record made before the Commission in the proceeding in Docket No. MC–29130 (Sub No. 70); and the Commission further avers that in making and in denying reconsideration of the report of November 22, 1954, it gave careful consideration to the National Transportation Policy and to all of the contentions called to its attention in said proceeding by counsel for the intervening plaintiff, that the said report and orders were and are not unreasonable, arbitrary, capricious, discriminatory, or in abuse of discretion, and that no constitutional or statutory rights, powers, privileges, or immunities belonging to the intervening plaintiff were infringed in any manner by said report and orders of the Commission.

Wherefore, having fully answered the complaint of the intervening plaintiff, the defendant, the Interstate Commerce Commission, prays that the relief sought in the intervening complaint be denied and that the said complaint be dismissed.

s/ James Y. Piper, Assistant General Counsel, Interstate Commerce Commission, 12th St. and Constitution Ave., N.W., Washington 25, D.C.

s/ Robert W. Ginnane, General Counsel, Of Counsel.

[fol. 171] Certificate of Service (omitted in printing).

APPEARANCES:

A. B. Howland, Attorney at Law, 500 Bankers Trust Building, Des Moines 9, Iowa, appearing for applicant.

D. C. Nolan, Attorney at Law, Iowa City, Iowa, appearing for Employees Association of Rock Island Motor Transit Company et al., interveners in support of applicant.

Rex H. Fowler and Homer E. Bradshaw, Attorneys at Law, 510 Central National Building, Des Moines 9, Iowa, appearing for Regular Common Carrier Conference, American Trucking Associations, Inc., et al., interveners [fol. 186] in opposition.

Albert B. Rosenbaum, Attorney at Law, 1424 Sixteenth Street, N. W., Washington 6, D. C., appearing for Regular Common Carrier Conference, American Trucking Associations, Inc., et al., interveners in opposition.

Eugene L. Cohn, Attorney at Law, 1 North La Salle Street, Chicago 2, Ill., appearing for Keeshin Motor Express Company, Inc., et al., interveners in opposition.

Joseph E. Ludden, Attorney, Gateway Transportation Company, 2130-50 South Avenue, La Crosse, Wis., appearing for Gateway Transportation Company, intervener in opposition.

Stephen Robinson, Attorney at Law, 1020 Savings and Loan Building, Des Moines 9, Iowa, appearing for Bos Truck Lines, Inc., protestant.

* * * * * * *

[fol. 187] J. D. FARRINGTON was sworn and testified as follows:

Direct Examination.

By Mr. Howland:

Q. Will you state your name, please?

A. J. D. Farrington.

[fol. 188] Q. And you live where, Mr. Farrington?

A. Chicago, Ill.

Q. And your occupation is what?

A. I am president of the Rock Island Railroad.

[fol. 172] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Title omitted]

ANSWER OF INTERSTATE COMMERCE COMMISSION TO COMPLAINT IN INTERVENTION BY BROTHERHOOD OF RAILROAD TRAINMEN AND ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN OF AMERICA—Filed November 19, 1955

Comes now the defendant the Interstate Commerce Commission, hereinafter called the Commission, and for its answer to the complaint of Brotherhood of Railroad Trainmen and Order of Railway Conductors and Brakemen of America, interveners as plaintiffs herein, filed in the above-entitled cause on October 3, 1955, admits, denies and alleges as hereinafter set forth:

I.

Admits the allegations contained in Paragraphs 1, 2, 3, 4, 5, and 6 of the complaint in intervention.

[fol. 173]

II.

Admits the allegations contained in Paragraph 7 of the complaint in intervention, except that the Commission denies the allegations of the second sentence of said Paragraph 7, and alleges that at the time of the filing of the application in question, on October 26, 1951, the points involved in said application were being served by, and are still being served by, The Rock Island Motor Transit Company pursuant to temporary authorization by the Commission, pending the outcome of the instant action, which temporary authority was and is subject to a maximum weight limitation of 2,000 pounds per shipment, later changed to 5,000 pounds per shipment, and subject to a restriction that no shipment may be transported by applicant between Chicago, Illinois, and Omaha, Nebraska, nor between any of the following points, or through, or to, or from, more than one of said points: Omaha, and collec-

Q. And are you connected in any way with the applicant in this case, the Rock Island Motor Transit Company?

A. Yes; I am also president of the Rock Island Motor Transit Company.

Q. What is the relationship between the Rock Island Railroad and the Rock Island Motor Transit Company?

A. The Rock Island Motor Transit Company is a wholly owned subsidiary of the Rock Island Railroad.

Q. Mr. Farrington, will you just outline your experience in the transportation field and give us generally the positions which you have held and the duties which you have performed in connection with railroad companies?

A. Well, I started with the Chicago, Burlington and Quincy Railroad in 1910 in the track department. I held various positions as a foreman, roadmaster, trainmaster, superintendent, general superintendent, and general manager of the Texas lines.

I left the Burlington in 1936, came to the Rock Island as operating officer and continued in that capacity until July 1942 when I was made chief executive officer under the trustee and January 1, 1948, I was made president of the Rock Island Railroad.

[fol. 189] Q. You were chief operating officer for the trustees of the Chicago, Rock Island and Pacific Railway Company in the years 1936 to 1942, I believe.

A. That is correct; yes.

Q. And during that time one of the things that was done by the trustees was to acquire what was known as the White Line Motor Freight, a company operating across the State of Iowa and into Chicago, as I recall?

A. That is true.

Q. That acquisition was accomplished with Interstate Commerce Commission approval and the new owner took over, as I recall, on or about the 1st day of April 1938, is that correct?

A. That is approximately the date, as I recall it. I think the negotiations started sometime in 1937. Final acquisition took place in April 1938.

Q. Later during the period of your service as chief executive officer for the trustees, was there an additional acquisition known as the Fred-rickson acquisition?

tively, Davenport, Bettendorf, Rock Island, Moline, and East Moline. The Commission further denies the interpretation placed by the intervening plaintiffs in the fourth sentence of said Paragraph 7 upon the report and orders of the Commission and refers the Court to the copies of the report and orders as attached to the original complaint filed by American Trucking Associations, Inc., and designated therein as Appendices A and B, for a full and complete statement of the tenor and import of said report and orders. The Commission further denies that, by virtue of said orders, detriment will result to the rail operations of Chicago, Rock Island and Pacific Railroad Company and of the employees thereof, on which point the Commission alleges that the intervening plaintiffs, Brotherhood of Railroad Trainmen and Order of Railway Conductors and Brakemen of America, failed to present any evidence of [fol. 174] such detriment in the hearings before the Commission.

III.

Admits the allegations contained in Paragraph 8 of the complaint in intervention.

IV.

Denies the allegations contained in Paragraph 9 of the complaint in intervention that injury will result to the employees represented by the intervening plaintiffs unless said report and orders are suspended, annulled and set aside and issuance of a certificate authorized thereunder be enjoined or, if issued, be declared invalid.

V.

Denies each and every allegation contained in Paragraph 10 of the complaint in intervention, and particularly and categorically denies that said report and orders of the Commission of November 22, 1954, July 6, 1955, and September 9, 1955, are illegal and void for the reasons assigned in sub-paragraphs (a) to (f), inclusive, of said Paragraph 10, or for any other reason or reasons.

VI.

Denies the allegations contained in Paragraphs 11 and 12 of the complaint in intervention.

VII.

The Commission further avers that its report and order of November 22, 1954, and its corrected order of July 6, 1955, and its order of September 9, 1955, denying reconsideration thereof were within the scope of the statutory [fol. 175] powers and authority delegated to it by the Interstate Commerce Act, and particularly within sections 207(a) and 208(a) thereof (49 U.S.C. 307(a) and 308(a)), and avers that its findings and conclusions therein were and are fully supported and justified by substantial evidence in the record made before the Commission in the proceeding in Docket No. MC–29130 (Sub No. 70); and the Commission further avers that in making and in denying reconsideration of the report of November 22, 1954, it gave careful consideration to the National Transportation Policy and to all of the contentions called to its attention in said proceeding by counsel for the intervening plaintiffs, that the said report and orders were and are not unreasonable, arbitrary, capricious, discriminatory, or in abuse of discretion, and that no constitutional or statutory rights, powers, privileges, or immunities belonging to the intervening plaintiffs, or either of them, were infringed in any manner by said report and orders of the Commission.

Wherefore, having fully answered the complaint of the intervening plaintiffs, the defendant, the Interstate Commerce Commission, prays that the relief sought in the intervening complaint be denied and that the said complaint be dismissed.

s/ James Y. Piper, Assistant General Counsel, Interstate Commerce Commission, 12th St. and Constitution Ave., N.W., Washington 25, D. C.

s/ Robert W. Ginnane, General Counsel, Of Counsel.

[fol. 176] Certificate of Service (omitted in printing).

A. Yes. I don't recall at the moment the date of that acquisition.

Q. Now, Mr. Farrington, I will ask you to state in general the objects and purposes which you sought to accomplish in connection with the acquisition of the White Line Motor Freight Company and to a lesser extent with the Fred-rickson line in western Iowa.

[fol. 190] Mr. Fowler: That is objected to on the ground it is immaterial.

Exam. Carpenter: Objection overruled.

A. I would say by that time it became pretty apparent that the handling of l. c. l. traffic was a very expensive operation from a railroad standpoint, that to provide the necessary service in an economical manner it required a coordination of rail and truck operation.

I gave a good deal of thought to it and recommended to the trustees that we enter the trucking business to that extent. I assume that in the past nothing has been more or a greater economic waste than to take a 2,000- or 1,500-ton freight train and hold it at a station while they unloaded 4 or 5 hundred pounds of freight.

It was becoming more and more impossible to give the type of service to the local communities from the standpoint of merchandise handling through strictly rail operation. Both from the standpoint of economy and service, I felt that there were great possibilities of a coordinated service through the acquisition of truck lines.

By Mr. Howland:

Q. Now, generally, during the period that these properties have been owned and operated, has there been any effort to concentrate the l. c. l. business or secure control of the l. c. l. business in this territory to the exclusion of other carriers?

[fol. 191] A. We have never made any effort to go outside our own territory and do other than to hold the business which we had been handling by rail and which properly belonged, I felt, to the Rock Island Railroad and the Rock Island Motor Transit Company.

Q. In connection with that phase of the matter, Mr. Farrington, what is the fact as to whether the traffic solicitation forces of the railroad have solicited motor carrier freight for the Rock Island Motor Transit Company over these routes?

A. The rail traffic department has not in any way through their organization or otherwise attempted to solicit any freight for the motor transit. I am talking about our common carrier freig it.

Q. That is on motor carrier billing?

A. Yes.

Q. Then to what extent, if any, have the solicitation forces of the Rock Island Motor Transit Company solicited railroad freight to move by railroad?

A. You have got the same situation there. The two organizations are entirely separate. The motor transit traffic solicitors have not in any way attempted to solicit any or influence business to the Rock Island Railroad.

Q. Now, as a result of certain of the proceedings had before the Interstate Commerce Commission there have been imposed here certain so-called key-point restrictions on the rail freight operation; as I recall, all the key points [fol. 192] on the Fred-rickson and White Line routes have been imposed at Omaha, Des Moines, and collectively at the Quad Cities of Davenport and Bettendorf, Iowa, Rock Island, Moline, and East Moline, Ill. Are you familiar in a general way with those key-point restrictions?

A. In a very general way I am. I can't say that I understand them nor did I understand the purpose particularly. They have done this. They have prevented the flexibility, freedom of operation that would permit economical operation. They have affected to some extent the class of service we have been able to render.

Q. Will you explain in a little more detail how that has come about?

A. Well, for instance, you take the present moment, I think generally the truck operation, the volume of traffic flows from the east to the west and our trucks are running eastbound, say out of Des Moines or running out of Omaha, many times empty.

Your rail operation is just about the opposite. Your loaded movement is from the west to the east and your empty movement is largely from the east to the west. That is particularly true of boxcars.

In other words, we are hauling boxcars generally empty from the east to the west for loading eastbound. We are in a position where, for instance, at Des Moines our eastbound l. c. l. volume is not heavy. Running trucks practically empty. We could handle that l. c. l. which belongs to [fol. 193] the railroad on railroad billing from Des Moines to Chicago, but on account of the key-point restrictions we are not permitted to do that. We have to haul empty boxcars at a time of boxcar shortage from Chicago out here or a car which may be made empty here and should move on west or should move into this territory for grain loading, flour loading, cement loading, and so forth, but we are required to take these empty cars and move them against the normal tide with merchandise and light load merchandise from Des Moines to Chicago.

All that car movement, those car days, the handling of the delay and everything else is just a straight economic waste, and here we have gone through periods of car shortage when every car we had on the railroad was vitally needed, but because of this restriction we have been required to use them to handle light loads of merchandise from Des Moines to the east at the same time we are operating empty trucks in that direction.

I think that is about as good an example as I can give you on that.

Q. Now, during the recent months, the Rock Island Motor Transit Company has been given authority to continue operations on motor carrier billing with a maximum of 5,000 pounds for any one shipment. In your judgment, is an operation on motor carrier billing with a 5,000-pound maximum restriction a practical and feasible operation?

A. I think our experience speaks for itself. I think it is [fol. 194] absolutely impractical. I don't see any reason for that type of restriction. If we are going to operate a truck line and service these people the way we should serve them, we have to have enough flexibility and enough supporting overhead traffic to help pay for the operation.

The peddler operations, as you know, are very expensive operations. You need a certain amount of overhead traffic to support it. You need to be in a position to take shipments that are offered and permitted under the normal authority and a 5,000-pound limitation on any one shipment is just quite beyond my understanding. I don't know what the purpose is. We are here to perform service, take the business that is offered.

Q. Now, you have performed this service in the recent months with the 5,000-pound restriction. Without going into detail as to the figures at this time——

Mr. Howland: And I may say to the examiner and those present, the figures will be shown in detail.

By Mr. Howland:

Q. —but generally what have the results of the operation under the present authority shown from the standpoint of operating figures; that is, have they resulted in a deficit or a profit?

A. They have resulted in the worst financial deficit, reduction in revenue of about 30 percent, as I recall it. I don't know whether that is revenue or tonnage. I will let somebody else testify to that. The result has been most [fol. 195] unsatisfactory and gives every indication that it is impossible to support an operation of this character on that basis.

Q. Is there in prospect any increase in costs or has any increase in costs recently taken place which will continue into the future, to your knowledge?

A. The recent increase in wages was very substantial. I am not too familiar with the details other than the report that was made to me and the statement it would actually require around a 16-percent increase in rates just to cover the cost of these recent wage increases. Whether that is accurate or not I can't say.

Q. I would like to ask you, Mr. Farrington, in your judgment as a transportation man, whether it is practically feasible to operate a motor common carrier service and a coordinated rail service under the present restrictions im-

posed on the Rock Island Motor Transit Company, both with respect to weight limitations and key-point restrictions.

A. No; I would say that it would be impossible to operate on a profitable basis, anywhere near profitable basis. We have reached the point where we have not anticipated any great profit out of these operations. It has become more of a service operation, trying to take care of the territory and the people that we have been serving for years. We would like to be able to at least break even on the thing.

Q. What is your position with respect to being willing or [fol. 196] otherwise to perform the service if the restrictions are lifted to the extent that the service will be able to carry itself without incurring substantial deficits?

A. Well, naturally we would feel an obligation—I have felt an obligation—to provide the so-called peddler service to all these little communities up and down the line of our operations and we have spent since we have been in the business some $1,700,000 in equipment, and we would plan to continue to provide the service we have in the past and improve it as we could if conditions permit, if we could operate with a reasonable degree of flexibility and just on the same basis as ordinary common carriers can operate.

Q. In your opinion, can an adequate transportation service be given to these intermediate communities on authority which is restricted to rail billing and at rail rates alone?

A. I don't think from what I have been able to develop and my knowledge of the operation, and so forth, any of the truck lines have in the past, with one or two very minor exceptions, or have in recent years given what we call peddler service, this local service that we provide in these small towns which we have felt it was our obligation to assume and to provide to these communities.

There are two things that we can do, as I see it. We can operate strictly on rail billing without any key-point restrictions, which would be a somewhat reduced operation, cut [fol. 197] out all interchange with other truck lines—in other words, all interline business. That would hardly, from the cost standpoint, I would say, permit us to carry on the local service to the extent we have in the past.

If we are to carry on that type of service, local peddler service, take care of all these communities, we need the interline business, we need the overhead through business, the privilege to carry that load and help pay the cost of that operation.

Mr. Howland: You may cross-examine. Pardon me just a moment.

By Mr. Howland:

Q. Mr. Farrington, is there anything further you wish to add to your testimony other than as has been developed here?

A. Well, I think I would simply like to say that we have assumed this responsibility from the time our certificate was granted in 1938, we have tried to serve these communities and serve them well. We have tried to improve our equipment and have not stinted in providing the things necessary to provide this service. Why there will be some degree of restrictions, of course, is another matter, but I think we have the loyalty and the support of the communities that we have been serving. I think they appreciate it. I am sure they want the service to continue.

Exam. Carpenter: Cross-examine.

Cross-Examination.

[fol. 198] By Mr. Fowler:

Q. Mr. Farrington, if my memory serves me rightly, when the Rock Island Railroad originally initiated a program of truck operation, the request for authority from the regulatory bodies was based upon the statement that the purpose of it was to eliminate the expense of the way-freight operation and substitute trucks for way-freight service, supplemented by the further statement that there was very substantial saving to the railroad by reason of a substitution of truck for way-freight service. Is that your recollection of the situation when the railroads initially inaugurated this sort of a program?

[fol. 220] Q. Are you familiar with the application which has been filed here by the Rock Island Motor Transit Company for authority to operate as a motor carrier in this territory?

A. Yes; I am.

Q. You have been familiar with the service rendered by the Rock Island Motor Transit Company and its predecessor, the White Line Motor Freight Company, in the Davenport area ever since that service was inaugurated, have you not?

A. Yes; that is true. I filed some of the first tariffs for the White Line, helped them file and to comply with the law when it first went into effect in 1935.

Q. What is the fact as to whether the White Line Motor Freight Company was the first motor carrier to operate from Davenport westward to Des Moines and from Des Moines into Davenport on highway 6?

Mr. Fowler: Wait a minute.

By Mr. Fowler:

Q. You claim you know whether it was on the first certificated carrier in interstate commerce?

A. I haven't claimed anything yet.

Q. Do you have personal knowledge of it?

A. I can't say definitely that it was the first. I could say it was one of the first operating west of Davenport.

Mr. Fowler: The question is objected to on the ground that it isn't the best evidence, calls for hearsay, calls for the incompetent conclusion of the witness.

[fol. 221] Exam. Carpenter: Objection overruled. Let the answer stand.

By Mr. Howland:

Q. Mr. Cummins, I will ask you this: In what manner and in what respect are the shippers and receivers of freight at Davenport or in the Davenport area affected by the application which is here being heard?

Mr. Fowler: It is objected to for the reason it calls for an incompetent conclusion and opinion of the witness, no proper foundation having been laid.

A. I couldn't tell you frankly whether that basis was the primary basis of the application that was presented. I assume that there were statements that were included in the application to that extent.

Q. It is true, is it not, that by the substitution of trucks for way-freight service the Rock Island Railroad has realized very substantial savings?

A. To what extent do you mean, through the elimination of train miles?

Q. That is right.

A. I would say that generally the answer to that is "no." To the extent of elimination of car miles, the delay of cars, possibly some over-time on the locals, I would say the answer were "yes." There are some cases on some branch [fol. 199] lines where the service may have been somewhat reduced.

Q. Well, isn't it a fact that when you did inaugurate truck service that you eliminated a lot of the way-freight service on your railroad?

A. Not too much of it. I would say that we are providing pretty much the same local service today from the standpoint of switching, setting out, picking up cars, and so forth.

Q. Do you at the present time in this immediate territory which is involved in this application have a daily rail service to all of these points?

A. We have daily rail service through all of these points. We have some tri-weekly operation and some daily operations.

Q. Then I am mistaken when I assumed that the original purpose of your program to inaugurate truck service was based upon a substantial savings that the railroad would accrue by reason of the curtailment of its way-freight service?

A. No; you are not mistaken entirely on that. As I stated originally, there were two things that I think motivated our entering into the truck operation. One was the economic waste in handling peddler l. c. l. from the local freight train or freight train of any character, and the other was the need for improving the service because of the fact that a great deal of our business was being taken away by some of the truck lines that were operating.

Exam. Carpenter: Can you qualify the witness?

By Mr. Howland:

Q. Mr. Cummins, are you familiar with the transportation conditions which exist in the vicinity of Davenport, Iowa, at the present time?

A. Yes; I am.

Q. Are you familiar with the operations now conducted by the Rock Island Motor Transit Company into and out of Davenport, Iowa?

A. Yes, sir; I certainly am.

Q. Are you familiar with the proposals that are set forth in this application?

A. Yes, sir.

Q. And are you familiar with the operations of the Rock Island Motor Transit Company in Davenport as they have been conducted from 1938 up until about the month of August 1951 when the restrictions were imposed?

[fol. 222] A. Yes; I am.

Mr. Howland: I will repeat the question.

Exam. Carpenter: Let the reporter read it, or do you want——

Mr. Howland: I will ask the reporter to read that question to which the objection was interposed.

(Question read.)

Mr. Fowler: I want to renew the objection previously made and also the objection it is immaterial to the main issue in the case.

Exam. Carpenter: Objection overruled.

A. Davenport is interested in this application from an interstate standpoint in the movement of freight out of Davenport to points proposed in the application to be served in the application by the Rock Island Motor Transit, particularly on pool cars, the distribution of pool cars.

We have two firms with whom I am very closely associated and whose records from time to time I have inspected personally, who handle a large movement of pool cars, breaking bulk at Davenport, and shipped out, a large portion of it, over the Rock Island Motor Transit to the vari-

Q. Now, is this not also a fact, that in the early develop-
[fol. 200] ment of truck operations by the Rock Island Railroad, your position was that you wanted authority to enter the truck field purely as an auxiliary or supplemental service to the rail service?

A. We wanted to establish a coordinated service. We made an application to acquire the White Line with all its certificates which existed at the time as far as I can recall, and we were granted that authority which had certain restrictions on rail traffic, but we were granted, as I recall it, practically the full authority on motor billing that the White Line had.

Q. I appreciate your position in that respect. However——

A. We felt we needed both of them to support an operation of that character.

Q. What my question was, in the early development of this program, was it not a fact that the railroads were suggesting to the regulatory bodies that the only reason they wanted to enter the transportation field by motor truck was to conduct an operation which would be auxiliary and supplemental to the rail service?

A. Of course, I can't answer for the railroads as a whole. The Rock Island.

Q. Answer for the Rock Island.

A. That is what I did. I attempted to tell you what our purpose was. Yes; we wanted a coordinated operation to protect our l. c. l. traffic and because we felt we could generally handle the local business in a much more economical manner.

[fol. 201] Q. Do you feel that the application which is now pending before the Commission, giving effect to the amendment which you have just filed, is an application for an authority to enter into a motor carrier service which is supplemental and auxiliary to rail service?

A. Yes; I think it is a combination of both rail service and common carrier truck service. You must look back to the fact that these communities have been served for years by rail service. Business which has gone to the various truck lines which you represent, going to and from these communities——

ous points covered by U. S. highway 6 and the other routes in this application. That is interstate traffic and from an interstate standpoint we need that service.

Now, from the other angle, the Rock Island Motor Transit Company has been giving us daily service to a lot of these small points starting immediately west of Davenport [fol. 223] along U. S. highway 6. I made a check of that to Council Bluffs. I believe there are some 25 or 28 points that are entirely local to the Rock Island Motor Transit.

We have our immediate trade territory such as Durant, Walcott, Stockton, other points immediately west, and then distribution further west that is important to Davenport.

The service, as I say, has been daily. That has not been true with many of the truck lines recently in Iowa and also in Illinois.

If the restrictions are placed upon the Rock Island Motor Transit to the extent that interline shipments are not possible, that certain interstate traffic is taken from the operation and the operation, as Mr. Farrington indicated, becomes unprofitable and that service is curtailed, our daily service out of Davenport, it is going to be a very unhappy situation for us. We depend upon that. We want it for the future.

By Mr. Howland:

Q. I think I omitted to ask you, though, what generally is the type and character of your businesses that are particularly interested in this continuation of this service in the Davenport territory there.

A. Well, we have what we term distribution—that is the wholesalers. We have a large pool-car break at Davenport from many national concerns who break their pool cars there and distribute—I don't care to disclose certain trade secrets, but nationally advertised products are broken there. [fol. 224] In addition to that, we have quite an extensive manufacturing center there. Our manufacturing is quite diversified. We used to say we manufactured everything from a button to a locomotive. However, we lost the button plant, but we still make the locomotive.

We have a food industry, flour mills. We have foundries. We have many steel-working plants, fabricating plants.

Q. Yes, sir; we could have quite an argument about that.

A. —at one time was rail business which you have taken.

Q. Let me ask you this question: Is it your interpretation of this application, as you now have filed it, that it seeks authority to conduct a truck operation which is auxiliary and supplemental to the rail service?

A. Yes; I would say it was.

Q. And it is your position that you want to conduct an operation which is auxiliary and supplemental to rail service?

A. We want to conduct an operation of a character that will be supplementary to our rail service and at the same time will permit us to provide all of the necessary service to these particular communities that they ask us to provide.

Q. I assume there is no secret about the fact that the Rock Island Motor Transit Company has consistently lost money?

[fol. 202] A. No secret about the fact; yes. They have not consistently lost money.

Q. What is the situation at the present time?

A. They are consistently losing at the present time.

Q. Now, to what extent does the Rock Island Railroad subsidize the Rock Island Motor Transit Company? What I have reference to, does the Rock Island Railroad assume a certain part of the overhead of Rock Island Motor Transit which an independent motor carrier would have to assume out of its operating revenue?

A. The Rock Island Railroad assumes no expense of the Rock Island Motor Transit other than possibly what we might say would be chargeable to the Motor Transit. Probably, just from my knowledge of truck operations, that wouldn't involve too much.

Q. For example, the station facilities of the railroad are made available to Rock Island Motor Transit Company——

A. The station facilities are——

Q. —isn't that correct?

A. Yes; certain parts of them are leased.

Q. Is there any charge made for that?

A. In some cases, parts of the station facilities are leased to the Motor Transit.

Quite a diversified manufacturing in addition to the distribution such as food products and various merchandise.

Now, of course, the merchandise is the principal item we ship over the Rock Island Motor Transit Company.

Q. Has the Rock Island Motor Transit Company performed a regular transportation service in interstate commerce between Chicago and Davenport over the years?

A. Yes; that is correct.

Q. And, generally, what is the type and character of the service to your knowledge which the Rock Island Motor Transit Company has rendered, both from Chicago and the local service, to points west of Davenport that you have referred to?

A. Well, it is a daily service and to a large extent from Chicago overnight and west probably so far as Des Moines overnight or 24 hours.

Q. Has that been a satisfactory service as far as the shippers are concerned?

[fol. 225] A. It has been a satisfactory service, and we want it to continue as a daily service. Anything that will hurt that is going to jeopardize our interests.

Q. Do you know of any other transportation agency by motor carrier there at the Tri Cities which has given as satisfactory a service, both interstate and intrastate, into this territory west of Davenport and extending along U. S. highway 6 other than the Rock Island Motor Transit Company? Is there any other carrier that you know of that has given as——

Mr. Fowler: Just a moment, please. That is objected to as calling for an incompetent conclusion of the witness.

Exam. Carpenter: Objection overruled.

Mr. Robinson: I object further to receiving from this witness an answer with reference to intrastate service, comparing that with interstate service.

Exam. Carpenter: Objection overruled. Answer the question.

A. My answer is "no" as to daily service, quality of service, and the full number of points served. In other words, these peddle runs take in everything. We have lines out of Davenport to certain points where they give daily service overnight and then on certain of their peddle runs

Q. At any cost to Rock Island Motor Transit Company?
A. They have certain lease arrangements with them; yes.

Mr. Fowler: Mr. Howland, are you going to have an accountant on the stand who is familiar with this situation?

[fol. 203] Mr. Howland: Yes; there will be an accountant on the stand. I will show the situation with respect to the leasing of the facilities. There will be some other——

Mr. Fowler: I have a feeling, you understand, that the Rock Island Railroad is subsidizing the Rock Island Motor Transit Company to some extent, and if you are going to have an accountant I won't bother Mr. Farrington with it.

The Witness: Let's explore that to an extent. The Rock Island Motor Transit pays— They have very few joint officers. Those that they do, the Motor Transit pays a fair proportion of their salary. We compensate the Rock Island Motor Transit for all service they perform for the railroad either on a mileage basis or on the established scale basis. They rent what property they use of ours. We pay them for the use of any trucks in case of any work they perform for us.

I don't know of a single case where we really subsidize the Motor Transit except that we have advanced money in the early stages to acquire lines.

By Mr. Fowler:

Q. Well, Mr. Farrington, it must be a fact that certain of your physical facilities of the railroad are made available to the Rock Island Motor Transit either at no compensation or at a very inadequate compensation.

Mr. Howland: Now just——

Mr. Fowler: I didn't bother you, Mr. Howland, and I think Mr. Farrington and I can get along all right.

[fol. 204] Mr. Howland: I object to the question as argumentative, if the examiner please.

Exam. Carpenter: Had you finished the question?

Mr. Fowler: Read it, please.

(Question read.)

will give us only 1 day a week when we connect with that particular point for their overnight service or daily service from Davenport, so I would say that my answer would be that I know of no other one that so completely gives that satisfactory service.

[fol. 226] Mr. Howland: I think you may cross-examine. First, I will ask——

By Mr. Howland:

Q. Mr. Cummins, is there anything you wish to add as a transportation man to your testimony here?

A. None other except that we feel that it would be burdensome upon us to have the restrictions such as the limitation of weight or the key points or the other restrictions that have been proposed or are in effect today. We feel if those are continued, it will materially hurt our service.

Mr. Fowler: I move to strike the answer of the witness for the reason that it is an incompetent statement. He is incompetent to express an opinion, that it is merely hearsay and of general application.

Exam. Carpenter: Let the answer stand.

Cross-examine, Mr. Fowler.

I presume you are through.

Mr. Howland: Yes; I am through. Thank you.

Cross-examination.

By Mr. Fowler:

Q. Who are these pool-car shippers?

A. Well, two of the principal ones are the Merchants Transfer and Storage Company and the Roederer Transfer and Storage Company.

Q. Merchants Transfer and Storage Company of Davenport?

A. Both are at Davenport.

Q. Is the Merchants Transfer and Storage Company at Davenport?

[fol. 227] A. Yes, sir.

Q. What is the chief executive's name of the company?

By Mr. Fowler:

Q. For the value of the services?
A. I would say——

Mr. Howland: Just a minute. That is objected to as argumentative——
Exam. Carpenter: Objection overruled.
Mr. Howland: —in form. It is not proper cross-examination.
Exam. Carpenter: Objection overruled.

A. I would say this, that I am not really in a position to testify as to the details of some of these leases and arrangements, and so forth, but generally there are certain leases in effect and they pay certain rentals. There may be some cases where they make use of a few feet of space at a local station temporarily. I am not too positive. Mr. Peterson will give you all of that when he gets on the stand.

By Mr. Fowler:

Q. There is one thing more I would like to visit with you about. You made the statement, I think, that this peddle operation serving these small towns could not be conducted at present rates and under present costs profitably, in your opinion, as a transportation man.
A. That is right.
[fol. 205] Q. If that situation continues, it means then that the Rock Island Motor Transit Company will undergo a continuing loss on this particular operation that is involved here.
A. I said it could not be continued with the present restrictions. If it is supported by an overhead traffic, why, in all probability there will be sufficient revenue in it to continue it.
Q. Do you think that this operations, such as you are proposing here, could be continued by an independent motor carrier that did not have the advantages of a parent corporation such as this applicant has?
A. That I don't think I am in a position to answer. I don't know just how the independent motor carrier's costs are and under what circumstances they operate. It might

A. A. C. Schick is president.

Q. And the name of the other pool-car distributor?

A. Roederer Transfer and Storage Company.

Q. And that is located at Davenport?

A. Yes, sir.

Q. And the chief executive of that company?

A. J. Francis Roederer.

Q. Is that all?

A. Those are the principal ones.

Q. Now, as I understand it, that consists of a rail pool car originating at some eastern origin point and destined to Davenport where it is redistributed?

A. That is correct.

Q. By both rail and motor carrier to various points?

A. That is correct.

Q. And the shipments you have reference to are these aggregate shipments in a pool car to points located on highway 6?

A. Yes, sir.

Q. How far west would that sort of an operation go?

A. Well, generally, Des Moines or a little bit west of there. In some instances, all the way across the State.

Q. Largely, however, on the eastern end?

A. Well, I would say as far as Des Moines would be the [fol. 228] preponderance of it.

Q. What are these commodities, groceries?

A. Well, I don't like to give the individual names because I have some information that——

Q. I am not asking you for that.

A. It is foodstuffs, candies, confectionary. Oh, there are others.

Q. What are those?

A. I can't think of them right now. We had ball bearings, for example.

Q. What I am anxious to find out, is this a fair assumption, that it principally consists of foodstuffs, candies, and confectionary, confections?

A. Cigarettes, meters.

Q. Electric meters?

A. No; gas meters.

Q. Gas meters.

A. Soap and soap products.

be that some individual that was an owner-operator and operated his own truck could carry on an operation of that kind. I doubt if any of your large motor transit operators would enjoy having that type of business.

Q. Do you feel that the independent carriers who hold certificated authority over this route could compete on an even basis with the Rock Island Motor Transit Company in view of its relationship with its parent company?

A. What are you talking about now, this peddler service or general operation?

Q. I mean, to put it bluntly, could these independent motor carriers stay in business in competition with——

[fol. 206] A. They have, very successfully.

Q. All of the capital requirements of the Rock Island Motor Transit Company are supplied by the Rock Island Railroad?

A. All the capital requirements, the initial capital requirements.

Q. For instance, the equipment that is being purchased now, is that financed directly?

A. The equipment being purchased now, the Rock Island Motor Transit recently borrowed on their own note from the First National Bank of Chicago to finance certain equipment. On the other hand, there have been cases where the Rock Island Railroad has lent them the money on a note to buy equipment.

Q. Now, if I understood you correctly, you made the statement insofar as you knew that there was no physical transfer of freight which had been delivered to you on truck billing to rail car for transportation to destination, is that correct?

A. No; I don't understand your question. I don't think I made any such statement.

Q. Is this a fact, it is our understanding that freight which is tendered to the Rock Island Motor Transit Company on truck billing is frequently physically transported from origin to destination by freight car?

A. In the past we have handled a certain amount of freight to points such as Des Moines for distribution beyond by truck; yes.

Q. Now, I presume that those shipments are handled in that manner because of the fact that there is some saving in transportation charges?

A. Well, there are two factors involved. One is the matter of service and the other is the matter of charges, that is true. It is natural that as far as they can, they use carload and then distribute. That is good traffic practice.

[fol. 229] Q. All right, now, with respect to motor carrier service between Chicago and the Tri-City area at the present time, how many carriers are there operating between those two points rendering a daily service between Chicago and the Tri Cities in interstate commerce?

A. I think my last count was 27.

Q. Are those substantial carriers?

A. Yes; there are some.

Q. Are they giving a good service?

A. Yes.

Q. Now, with respect to such communities located on highway 6 west of Davenport, for instance Grinnell, do you have a substantial motor carrier service now from Davenport or in an interstate movement through Davenport and Moline to such a place as Grinnell, Iowa?

A. Yes; there are certain points on No. 6 where we do have other interstate service.

Q. That is a daily service, is it not?

A. In some instances it is. Others not.

Q. And such points as Grinnell?

A. Yes. Grinnel- has additional service.

Q. Newton?

A. I can give them all to you if you want them, Mr. Fowler.

Q. No.

A. Newton.

[fol. 230] Q. Suppose we develop that. The only point——

A. There are some. There was 28 on my count on 6 that did not have other service. I made a special study of that.

Q. Now——

A. Council Bluffs and Des Moines and others hav:.

Q. Now, perhaps you had better give us those 28 that you— Just a moment, so we can keep the record straight. What you are giving me now is a list of 28 points involved

Q. So there has been some intermingling of that sort?

[fol. 207] A. There has been some, but the Rock Island Motor Transit has paid the rail freight charges.

Q. I understand, but is that the practice now?

A. I doubt if we are doing very little of that now. The volume has diminished to such an extent that——

Q. Do you regard that sort of an arrangement as a tremendous competitive advantage?

A. No; I don't. Generally, the business of that character that we have handled has been railroad business that we have brought in by rail car and distributed locally by truck. I think there is no great advantage to that. That is open to anybody, any truck line. I think the railroad commercial rate on handling that business——

Q. Now, I understand this application as it now stands, the Rock Island Motor Transit Company and the Rock Island Railroad want to establish an integrated motor carrier service, in other words, a free and unrestricted motor truck operation, as well as a free and unrestricted railroad operation in this territory, is that correct?

A. I don't know how far your mean. g of "unrestricted" is concerned. The railroad operation is far from unrestricted.

Q. Let's forget the railroad for a minute then. What you are asking for here is an unrestricted motor carrier operation?

A. We are asking substantially for the authority that we previously had and operated under for some 10 years as far as the Motor Transit is concerned.

[fol. 208] Q. You are speaking again, I presume, of the litigation which has been going on over the old White Line certificates. Now, what I am asking you now is whether or not you aren't asking here——

Mr. Howland: Just a minute. Did you finish that last question?

Mr. Fowler: I beg your pardon.

Mr. Howland: Had you finished your last answer? I thought Mr. Fowler cut you off.

Mr. Fowler: If I did, I am sorry.

The Witness: If he did, I am sorry.

in this application which you have determined from the study you have made do not have any daily service in interstate commerce from your area in the Tri Cities?

A. From Davenport to this area.

Q. When you use the word "Davenport," you are talking about an interstate movement?

A. Yes.

By Mr. Howland:

Q. Except by the applicant's lines, is that right?

A. Except by the applicant's line; yes.

Adair, Altoona, Anita, Atalissa, Atlantic, Brooklyn, Casey, Colfax, Coralville, Dexter, Durant, Kellogg, Ladora, Lewis, Marengo, Menlo, Mitchellville, Oakland, Oxford, Stockton, Stuart, Tiffin, Victor, Walcott, West Liberty, Wilton, sometimes known as Wilton Junction, and Wiota.

By Mr. Fowler:

Q. Those are the points that you feel are now being presently served by the Rock Island Motor Transit Company only?

[fol. 231] A. That is right, out of Davenport.

Q. Now, what sort of rail service do you have on shipments originating from the Tri-City area to these points you have just named?

A. The rail service on the Rock Island to these points generally throughout Iowa is very poor.

Q. That isn't what I asked you, Mr. Cummins. Now, will you go back and tell me what is the rail service between the Tri-City area available for shipments originating in that area moving to the 28 points just mentioned by you, in interstate commerce?

A. From the checks I have had in the past, complaints we have had in the past, it will run from 6 to 12 days.

Q. Is it a fact that there is a daily rail service available from the Tri-City area to these points?

A. Now when you figure the over-all service; no. There are daily trains running on the line, but I am talking about the over-all service, Mr. Fowler.

Q. I understand. Now, I wish you would just answer the

Exam. Carpenter: Read the last answer; Mr. Reporter, please.

(Answer read.)

By Mr. Fowler:

Q. Then I wanted to ask this question: Be that as it may, the fact remains that what you are seeking here is authority to conduct a free and open and unrestricted motor carrier operation?

A. I don't think any operation is free and open and unrestricted. We want an operation with sufficient flexibility as we have outlines in our application so we can operate successfully and economically and serve the territory that we do serve in the manner that we should serve it.

Q. Well, what I have reference to is this. For instance, [fol. 209] I have here a copy of the certificate of convenience and necessity which was issued by the Commission to Rock Island Motor Transit Company on September 11, 1951, and it contains, with respect to this particular authority which you seek here, conditions or qualifications to this effect, first, that the service to be performed by the carrier should be limited to service which is auxiliary to or supplemental to rail service of the Chicago, Rock Island and Pacific Railroad. Now, are you asking to have that condition eliminated?

A. I don't know as I can answer. Is that the complete request we are making under that application?

Q. I don't believe I understand you. That is merely——

A. Have you read it all or is that——

Q. There are some more. I will read them.

A. That sets out our application, the purpose, as I understand it.

Q. My question was, is it your request here that that condition be eliminated, that qualification?

Mr. Howland: Mr. Examiner, the application, I submit, as amended, speaks for itself. It shows the authority that we seek, and I don't believe this is proper cross-examination of this witness to go into the details of what may have been imposed under the temporary operating authority. For that reason I object.

Exam. Carpenter: What certificate are you reading from, [fol. 210] Mr. Fowler?

Mr. Fowler: From the one issued on the 11th of September 1951, and the only purpose of my inquiry of Mr. Farrington was to ascertain——

Exam. Carpenter: In what docket number?

Mr. Fowler: In this docket number.

Exam. Carpenter: It is the sub-69 TA?

Mr. Rosenbaum: It is the certificate issued in the Lee docket.

The Witness: I am fairly unfamiliar with that certificate.

Mr. Fowler: I have a right, I think, Mr. Examiner, to ask Mr. Farrington, who represents both the railroad and the subsidiary truck outfit, whether or not it is his understanding what sort of an operation he hopes he will be authorized to conduct, whether this type of a condition which I have just read is to be eliminated or is to remain in the certificate which he hopes to get, which I have a perfect right to inquiry. I am not going to quibble about it.

Mr. Howland: Isn't that a legal conclusion about it, if the examiner please?

Mr. Fowler: There is nothing legal about it.

Exam. Carpenter: What he is trying to do is to determine what Mr. Farrington thinks the present application covers.

Mr. Fowler: That is not true at all. I don't know what type of operation he will have after he gets the authority [fol. 211] he hopes to get. Will it be supplemental and auxiliary to rail service?

Exam. Carpenter: Motion overruled. Go ahead and answer if you can.

A. Part of it will be; yes.

By Mr. Fowler:

Q. All right, it will serve no point that is not presently served by the Rock Island Railroad?

A. Not that I know of. If there are any off-line points in that application— We were asked to serve one or two small communities. I don't know whether there are or not.

Mr. Fowler: In other words, you do have authority now to conduct a motor truck operation on Chicago traffic from Chicago, say to Iowa City?

Mr. Howland: That is right. We are performing the service.

Mr. Fowler: Okay. I didn't understand it.

The Witness: I didn't know what you were talking about there, whether the present temporary authority or whether you were talking about the service they had rendered in the past prior to that.

Mr. Fowler: That is all I have.

By Mr. Cohn:

Q. As I understand it, Mr. Cummins, your association does not represent shippers on the Illinois side but is [fol. 235] confined——

A. No; we do not.

Q. That is, its members are within the Davenport community or Bettendorf or East Davenport, is that correct?

A. That is correct.

Q. What percentage of your members are shippers, in the shipper category, would you say?

A. Are you talking about the Chamber of Commerce or the traffic bureau?

Q. I am talking about the Chamber of Commerce.

A. That is pretty hard to say. We have what we call multiple membership. One firm may have 15 members. It is pretty hard to say that.

Q. Mr. John H. Logan testified previously, and he is your assistant, is he not——

A. That is correct.

Q. —in the traffic bureau, and if he stated that 25 percent of the members are shippers, would you agree to that figure as being substantially correct?

A. Eliminating what we call our multiple membership, the firms represented, I would say "yes."

Q. What is the membership of the Chamber of Commerce itself at the present time?

A. Around 17 or 18 hundred. If you want the figures, we service directly about 175 firms there that use our services.

Mr. Howland: There are a few places such as Griswold and Coralville and one or two others that I can't now recall that are not presently stations on the railroad. Griswold was once a station on the railroad and the rail line was abandoned. Coralville, I think the rail line has been taken up at that point.

By Mr. Fowler:

Q. Then I believe, Mr. Farrington, you have already testified you are seeking to have these key-point restrictions eliminated which have the effect of prohibiting a complete truck service from, say, Chicago to Omaha?

A. Yes. Particularly burdensome so far as a restriction on rail billing. That is the thing, as I explained, that restricts us from taking advantage of the equipment that is available and utilizing it.

Q. Well, what this restriction means, as I understand [fol. 212] it, is that the railroad could not originate freight at Chicago destined to Omaha and transport it throughout the route by truck; is that your understanding of it?

A. I think we are primarily interested in some of these intervening key points from the railroad standpoint. One of the outstanding things is—I think it did apply at Omaha as well as at Des Moines—the fact that we have an empty eastbound movement on these trucks and we might just as well utilize the available space in those empty trucks to bring back this rail l. c. l. Instead of that, we are forced to use boxcars for an eastbound movement which is contrary to the normal movement.

I am pointing out your empty movement of boxcars is westbound for grain loading, flour loading, loading in the territory, and moves east. We are making a counter move. We are using a lot of car days unnecessarily when we utilize boxcars for the purpose of handling this comparatively light l. c. l. movement from west to east, in view of the fact we have empty trucks going over that same route and in the same direction.

Q. I think that is true. Now that, of course, is true of all of the transportation agencies. They all have an awful time getting back to Chicago, don't they, from this territory?

[fol. 236] Q. They are either shippers or receivers of freight, is that correct?

A. That is correct; yes, sir.

Q. Now, as I understand it, in the distribution of the pool cars, the shipments that are involved, the individual shipments, are relatively small in size or weight, are they not?

A. Not always. There are some that will run to 10 or 12 or 15 thousand pounds.

Q. What would be the average weight of one shipment that would be distributed in the pool car distribution service?

A. I don't believe I could estimate that, Mr. Cohn. It will vary.

Q. Well, would you estimate it as less than 2,000 pounds, the average weight?

A. I wouldn't know about the average, but the range would be from oh, probably 200 pounds, 150 pounds, up to 12 or 15 thousand pounds.

Q. What percentage of the shipments, if you know, would be over 2,000 pounds in size?

A. I couldn't say. I have inspected the trip sheets, records, and so forth, but I can't remember those details.

Q. Isn't it a fact that 90 percent of the shipments or more would be of a weight of 2,000 pounds or less in the pool car distribution service?

A. Well, as I say, I can't say. I can't give you an average [fol. 237] on it. I know the range.

Q. You wouldn't say whether that is a correct statement or not?

A. I couldn't say. No, sir; I don't know.

Q. Now, these 28 points that you mentioned in your testimony, as I understand, are points where you stated there is no daily motor carrier transportation service other than that rendered by the applicant in interstate transportation, is that right?

A. That is correct.

Q. There are, however, motor carriers with whom you are familiar who perform some transportation services from the Davenport area to some of these points, isn't that true?

A. Well, I don't believe there are any shown as performing any service. Of course, there may be service that you

A. No. On the railroad, we have a fine time because we load them up and we take them eastbound.

Q. I am talking about the motor carrier.

A. There is an opportunity that is offered and denied to [fol. 213] save a lot of boxcars, save a lot of economic waste in handling.

Q. You would, of course, have a terrific advantage over your competition if you were permitted to integrate your operations to that extent.

A. Why.

Q. You would be utilizing your facilities both ways while your competitor motor carriers would still have the problem of getting back to Chicago, wouldn't they, with pay freight?

A. You have opportunities which you take advantage of and which we go into a good deal of detail on, probably just as well we don't discuss, where you utilize your eastbound movement of your trucks. All we want to do—it isn't establishing an operation. It is an operation that is in existence. We can't take advantage of it. We are prevented from taking advantage of it.

Q. Were you familiar with the proceeding which the Commission had sometime ago in which they reopened your authority for the purpose of exploring what modifications should be made in these restrictions we have been talking about? It is my understanding that the Rock Island Railroad never responded to that invitation. Are you familiar with that situation?

A. No; I am not. I know nothing about it.

Mr. Fowler: That is all I have.

Exam. Carpenter: Any further cross-examination?

By Mr. Cohn:

Q. Mr. Farrington, I would like to inquire, if I may at this point, whether you are able to state at this time who [fol. 214] the common officers are of the railroad and of the applicant truck line. I understand you are president of both.

A. I am one of them, and then we have a fellow by the name of Swanson who is assistant to the operating vice president of the Rock Island Railroad and has a title, I

believe, of vice president of the Motor Transit. His salary is divided. Mr. Peterson, who is our general manager of our truck operations, holds no office actually. I think that is correct, isn't it, Mr. Peterson?

Mr. Peterson: I hold no office other than general manager in the Motor Transit.

The Witness: I don't think we have got any other joint officers——

By Mr. Cohn:

Q. Are there joint directors?

A. —except we may have some of our legal officers act jointly.

Q. Are there joint directors, to your knowledge, Mr. Farrington?

A. That is, directors that are also directors of the Rock Island Railroad?

Q. Yes, sir.

A. I think I am the only one.

Q. Are there joint employees, without naming specific ones, but are there joint employees of the railroad and of the trucking company?

A. I don't think so. There may be one or two. There isn't over one or two.

[fol. 215] Q. By filing of the application in its present form, Mr. Farrington, isn't the applicant actually seeking to do something more than the railroad had been doing in connection with rendering a transportation service to the various communities involved?

A. How far back——

Q. You went back to 1937 or thereabouts before the acquisition of the White and Fred-rickson lines. At that time you stated the railroad was performing a service to these various communities.

A. As I look at this picture, years ago we performed practically all the service to these communities. Then as the development on the trucks came on, of course the situation changed and changed for the better to a great extent like all developments.

It became very obvious that there were certain forms of transportation that you could perform with trucks much

more economically and expeditiously than you could by rail. We recognized that and we entered the trucking business with the idea of providing that type of service, so if you go back far enough we performed all the service in that territory.

There was a period, and there is a period today, we don't perform all truck service. We are trying to perform as much of the service as we can and hold the business which we have had.

Q. Well, as I understand it, you want to do more than just handle the traffic which would ordinarily or would [fol. 216] have moved over the rail facilities of the Rock Island Railroad; you also want to handle traffic which originates on and is probably transported by other truck lines, isn't that correct, independent truck lines?

A. You are talking about inter-line business?

Q. Yes.

A. Of course, that goes back to ancient history, too. That inter-line business was at one time inter-line freight business inter-lined by various railroads. As you go through this period of transition from rail to truck of this local service, your interchange changes from rail to rail to truck to truck.

Q. Well, what would prevent you from handling that type of service under a rail billing?

A. Well, we are not permitted, as I understand it. We have no such established arrangement.

Q. You are not permitted under the law, is that your understanding, Mr. Farrington?

A. I think we have no joint rates established:

Q. In other words, you have not filed any joint rates that would permit that type of handling, isn't that correct?

A. That may be the answer. I am no rate expert.

Q. You are not stating that you cannot lawfully handle that type of traffic by the filing of joint rates with motor carriers?

A. I would be afraid to give you a definite reply on that. I assume we could.

[fol. 217] Q. Are you familiar with the handling of the freight that moves over the applicant's lines on the docks at the various points where the docks are maintained by the applicant?

A. No; I am not except in a very general way. I couldn't give you any details.

Q. You would not know, for example, whether the handling, docking of the freight, would be performed by rail or by the trucking employees on the dock?

A. I know generally that there is a very strict division as to just how far each can handle what.

Mr. Cohn: I believe that is all I have, Mr. Farrington.

Exam. Carpenter: Any further cross-examination?

Any redirect?

Redirect Examination.

By Mr. Howland:

Q. Mr. Farrington, is it not true that with the decline in the l. c. l. rail traffic that some of the rail freight house facilities are unused or might not be used except for the use made of them by the Rock Island Motor Transit Company?

A. Yes. We have had far more capacity in most of our freight houses in recent years than we required. In fact, we have leased many to outside operations.

Q. Outfits such as feed concerns?

A. For storage.

[fol. 218] Q. General warehouse storage purposes?

A. Yes.

Q. And in some instances to truck lines?

A. Yes.

Q. Freight forwarders?

A. That is correct.

Mr. Howland: That is all I have.

Exam. Carpenter: Any re-cross?

You are excused, Mr. Farrington. Thank you.

(Witness excused.)

Exam. Carpenter: We will take a 5-minute recess.

(Short recess.)

Exam. Carpenter: We will proceed.

GEORGE M. CUMMINS was sworn and testified as follows:

Direct Examination.

By Mr. Howland:

Q. Will you state your name, please, so that we may all get it?

A. George M. Cummins.

Q. You live in Davenport, Iowa?

A. I do.

Q. And you have made your home there about how long?

A. About 40 years.

Q. And what has been your occupation during the period you have lived in Davenport the last 40 years?

[fol. 219] A. I came to Davenport as freight traffic manager of the Iowa and Illinois Railway, later succeeded by the Clinton, Davenport and Muscatine Railway, and 35 years ago next July 1 I went to the Chamber of Commerce as traffic commissioner and have been in that capacity ever since.

Q. What has been your position there with respect to handling traffic matters for the members of the Chamber of Commerce? Just describe what your duties have been and what work you have done.

A. Well, the duties of our department, the traffic bureau, have had to do with all forms of transportation; that is, rail, water, air, and motor. We have had two types of services in our bureau; one, the direct service and the quoting of freight rates, routing, recommending service, general traffic problems as they are brought to us daily. We quote in the neighborhood of 17 or 18 thousand rates—that includes rail and truck—a year.

In addition to that, we have what we call our general service, civic service, which has to do with the improvement of transportation facilities to serve the community. That is generally our work.

Q. Generally, are you familiar with the motor carrier service that is available to Davenport and the area of Davenport there?

A. Yes; I think I can say that I am pretty well familiar with it.

questions. Is there, to your knowledge, a scheduled rail service from the Tri-City area to these 28 points you have just mentioned?

A. Yes; there are trains daily. On the main line, there are trains daily; yes.

Q. So then there is available to these 28 stations that you [fol. 232] have named a rail service daily by the Rock Island Railroad as well as a daily express service, is that correct?

A. Now, I don't want to quibble——

Exam. Carpenter: What do you mean by "express service"?

Mr. Fowler: Well, American Railway Express, the usual express service.

A. I don't want to quibble, Mr. Fowler, but I want to get the facts here and I think you want to, too. When I say there is a daily rail service, I mean there are scheduled trains, but that does not mean that we get a daily service to these points. It may be 6 days in some instances.

I have traced shipments to Iowa City that have taken 6 days by rail, whereas your truck is the same day. Now, there are trains running on this main line daily, that is true. The only car that we have on the main line of the Rock Island that we load direct is West Liberty. That is 40 miles. Then it has got to be transferred into another car to peddle along west of there or if it is going maybe this side of Des Moines, maybe loaded into a Des Moines car and then loaded back on a local from there.

By Exam. Carpenter:

Q. You said "this side of Des Moines"; you meant east of Des Moines?

A. East of Des Moines.

Where there are daily freight trains, that is what I am trying to answer when you said scheduled. We don't get [fol. 233] the daily service. We don't get the service out of Davenport by rail.

By Mr. Fowler:

Q. In other words then, as I understand it, despite the fact that there is a paper-scheduled rail operation to these

points, you don't get the service from the Rock Island Railroad?

A. That is correct. We have delays at the terminals. I have traced some where we have had cars get to destination, a merchandise car, and lay there for 3 days before it is switched to the freight house.

Q. But they could be handled by rail except for the delayed service?

A. It could be; yes. Certainly, they can be handled by rail.

Q. In other words, the commodity such as soap and foodstuffs and candy that come out of these pool shipments you have been talking about could be handled to all these points by rail?

A. They could be, but the operation wouldn't last very long, I can tell you that.

Mr. Fowler: I move to strike that last part of that answer as not responsive to the question.

Exam. Carpenter: It will be stricken.

By Mr. Fowler:

Q. Does the Rock Island Motor Transit Company at the present time conduct an operation for the transportation of interstate freight from Chicago to a point such as Iowa City, Iowa, handled entirely by truck?

A. I can't say, Mr. Fowler.

[fol. 234] Mr. Fowler: I would like to ask Mr. Howland, this key-point restriction that is in your present certificate, does that prohibit you from operating a through truck service through the Tri Cities?

Mr. Howland: No; except from Omaha.

Mr. Fowler: In other words, then——

Mr. Howland: You see, the key points are Omaha and the Tri Cities collectively. Now, the result of that operation is that we can operate on motor carrier freight, not rail freight. There is an additional key point at Des Moines on rail freight, but we can operate from the Tri Cities as far as Council Bluffs westbound, but eastbound we are restricted to Walcott as the most easterly point we can move anything to out of Omaha.

have in mind from other interstate points. Now, they do serve them from other interstate points, but I am speaking now of Davenport.

Q. Well, is it your testimony then, Mr. Cummins, that there are no other motor carriers other than the applicant who performs any transportation service——

A. No; I wouldn't say that.

Q. —to these points?

A. I wouldn't say that. There are irregular-route services. There is irregular route authorities that I didn't check.

Q. You have motor carriers members of your traffic bureau, do you not?

A. No; we do not.

[fol. 238] Mr. Cohn: You don't. That's all.

Exam. Carpenter: Any further cross-examination?

Redirect.

Redirect examination.

By Mr. Nolan:

Q. Mr. Cummins, what is the fact as to whether or not you are familiar with the motor carriers who have authority to serve many of these points and who do operate through these points but do not give a local service?

Mr. Fowler: That of course is objected to.

By Mr. Nolan:

Q. If you are familiar with that fact.

Mr. Fowler: That of course is objected to as leading.

Exam. Carpenter: Objection overruled.

Mr. Fowler: Just a moment. It is also objected to on the ground that it calls for an incompetent conclusion and opinion of the witness, no proper foundation having been laid for the expression.

Exam. Carpenter: Read the question.

(Question read.)

Exam. Carpenter: Qualify the witness.

By Mr. Nolan:

Q. Are you familiar with such conditions as that, Mr. Cummins?

A. I am familiar with some; yes.

Q. As a matter of fact, have you not represented motor carriers as practitioner in some instances; not only have you contact with motor carriers from the shipper's standpoint, but also as a practitioner before the Commission?

[fol. 239] A. Yes; I have represented motor carriers in my private practice in addition to my work at the Chamber.

Q. Then answer the question as to whether or not there are carriers that you know who have authority and who do operate through these various points, but who do not serve them out of Davenport on a regular basis.

Mr. Fowler: Just a moment. Objected to on the ground it is immaterial; also objected to on the ground it calls for a general incompetent conclusion of the witness.

Exam. Carpenter: Objection overruled.

A. Yes; there are carriers, some who have interstate authority, that will operate from Chicago to Illinois points with authority to these points but still don't give us the daily service out of Davenport or a service out of Davenport.

By Mr. Nolan:

Q. Now, for the purpose of the record, what is the fact as to whether or not the Rock Island Motor Transit Company isn't the only company that holds Iowa intrastate operating authority west out of Davenport to the points involved in this application?

Mr. Fowler: Objected to for several reasons. First, it is immaterial to any issue in this case; second, it isn't the best evidence.

Mr. Cohn: I am going to object also on the ground this witness has not been properly qualified in connection with that question.

[fol. 240] Exam. Carpenter: Overrule both objections.

A. Generally, that is true. There are certain points on

U. S. highway 6 like Des Moines, Cedar Rapids, where other carriers do have intrastate authority, but generally for the larger number of points along U. S. highway 6 the Rock Island Motor Transit is the only one that has the intrastate authority.

By Mr. Nolan:

Q. Is that particularly true to the smaller points?
A. That is correct; yes, sir.
Q. One more question. State whether or not such points as Wellman and Kalona, which are on the Rock Island Motor Transit system, have any other transportation facilities from Davenport and the Tri-City area other than the Rock Island Motor Transit Company, if you know.

Mr. Fowler: Objected to for the reason that the witness hasn't shown himself competent to testify with respect to service to those points. Objected to as calling for an incompetent conclusion of the witness.
Exam. Carpenter: Objection overruled.

A. I didn't check those two points, Mr. Nolan. I know they serve them, but I didn't check them as to the exclusive——

By Mr. Nolan:

Q. Do you know of any motor carrier, Mr. Cummins, who is serving the towns of Wellman and Kalona other than the Rock Island Motor Transit Company?
[fol. 241] A. No; I do not.

Mr. Fowler: Just a moment, please. I object to that as leading and suggestive, on the ground that it is repetition of the previous question to which the witness responded that he did not know, objected to as calling for the incompetent conclusion of the witness.
Exam. Carpenter: Objection overruled.

By Mr. Nolan:

Q. I am referring to out of the Tri Cities, Davenport and the Tri-City area.

A. That is what I am talking about, too.

Q. You say you do not know of any other carrier serving those points?

A. No.

Mr. Nolan: That is all.

Exam. Carpenter: Any re-cross? Thank you, Mr. Cummins.

(Witness excused.)

Exam. Carpenter: We will recess for lunch until 1:30.

(At 12 noon, a recess was taken until 1:30 p. m. of the same day.)

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AFTERNOON SESSION

1:30 p. m.

Exam. Carpenter: We will proceed. Call your next witness.

Mr. Howland: I would like to ask Mr. Maurer to come forward and be sworn, please.

[fol. 242] ARTHUR J. MAURER was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. You may state your name and place of residence, please, and in giving your evidence speak up so that all in the room will have no difficulty in hearing you.

A. My name is Arthur J. Maurer, Chicago, Ill.

Q. Your business is what?

A. Assistant Traffic Director of the Chicago Association of Commerce and Industry.

Q. What is the nature of the organization known as the Chicago Association of Commerce and Industry?

A. It is what would ordinarily be known as the Chamber of Commerce.

Q. About what is the membership of that organization?

A. Approximately 4,500.

Q. And does that include manufacturers and wholesalers and processors of various types——

A. That is right.

Q. —of goods?

A. That is right.

Q. In other words, it is a general representative of the commercial and industrial interests of the City of Chicago?

A. That is correct.

Q. And how long have you been associated with that organization?

[fol. 243] A. 24 years.

Q. Are you familiar with the problems involved in making provision for transportation service to and from Chicago to serve the commercial interests of that community?

A. Yes, sir; I am.

Q. Are you familiar, at least in a general way, with the application as amended in this case?

A. I am.

Q. By what authority are you appearing here at this hearing?

A. This application was considered by our industrial traffic council meeting held on March 7, 1952. We were authorized to appear here in support of the application, not only on behalf of the smaller shippers but to handle the l. t. l. and the truckload shipments.

Q. I wish you would describe in a general way the number and character of the shippers whom you represent who are interested in service from Chicago into what might be termed the Iowa area.

A. Well, the number would be rather difficult to say. Our industrial traffic council consists of approximately 400 of the large industries of the Chicago area. I would estimate those 400 would ship 85 or 90 percent of the tonnage in and out of Chicago, and in addition to that we publish a shipping guide service that contains a rail routing guide and since 1922 we started on a truck routing guide, and we have approximately 2,100 shippers in the Chicago [fol. 244] area that use that guide, and I would assume practically all of them ship into the Iowa area.

Q. Have you familiarized yourself with the service which has been rendered by the Rock Island Motor Transit Company from Chicago in interstate commerce into the Iowa territory?

A. I am familiar; yes, sir.

Q. You are familiar with the present restriction of 5,000 pounds?

A. Yes, sir.

Q. Maximum on the authority of the——

A. Yes, sir.

Q. —Rock Island Motor Transit Company. How, if at all, does that maximum limitation affect the shippers or some of the shippers whom you represent in the Chicago area?

A. Well, it was the feeling of our shippers that the Rock Island Motor Transit is performing a necessary service and that they should be permitted to perform a full common carrier operation. That means to handle not only the smaller towns but the larger towns on their route and to handle truckload as well as the less-than-truckload traffic. In other words, to have an operation which is economically sound.

Q. What is the fact as to whether there are points on the route of the Rock Island Motor Transit Company in Iowa between Davenport and Council Bluffs as to which the Rock Island Motor Transit Company has been the only motor carrier regularly serving those points, particularly [fol. 245] with the so-called smaller shipments of less than, say, 2 to 3 or 5 thousand pounds?

Mr. Fowler: That is objected to on the ground it is calling for the incompetent conclusion of the witness, and hearsay.

Exam. Carpenter: Objection overruled.

A. Well, as I previously mentioned, we publish a truck guide in which we show routing from Chicago via the approximately 122 long-distance motor carriers that are members of our association. I have checked the Iowa listings on that guide and I find there are 22 points to which Rock Island is the only carrier who is offering a service or who at least has told us they are rendering service to those

points, and there are two other shipping guides published in Chicago which we also checked, and I find that, checking those guides, there are still five points in the State of Iowa in which Rock Island is the only one shown as having service.

I might add that there are several other points in which the carrier having service from Chicago, that is, shown in these other guides as having service, is a carrier that doesn't even maintain offices in Chicago. There are three of those.

From what I have been able to determine—in fact, I know; I checked myself—they do not belong to or participate in the Midwest Motor Freight tariff. They publish their own tariffs. I don't know what their charges are. They do not maintain an office in the Chicago area. They have no pickups there, no terminal there.

[fol. 246] Q. Do they publish interline tariffs?

A. I don't know.

Q. Now, are the members of your association and the shippers in the Chicago area interested in the continuation of service into this Iowa territory on highway 6 by the Rock Island Motor Transit Company?

A. Definitely, we are. Certainly a large volume of traffic moves from Chicago into the State of Iowa, and we realize the importance of motor carrier transportation to the Chicago market.

Q. Under present-day conditions, is it your opinion that a territory such as this Iowa territory where there are numerous small towns separated by distances of from 10 to 20 miles, in an agricultural area, would an all-rail service on rail billing, in your judgment, adequately serve the needs of that territory?

Mr. Fowler: That is objected to on the ground that it calls for a speculative answer and an incompetent conclusion of the witness.

Mr. Cohn: Objected to, the witness not being properly qualified.

Exam. Carpenter: He is asking for his opinion only. Objection overruled.

A. We have a well-established interest in motor carrier transportation. We also have a very vital interest in rail

[fol. 247] transportation. There is rail package car service into about 31 destinations in the State of Iowa, but the only points involved are the very large points. There are none of these small points that are involved in the Rock Island application. The package cars are to the larger points, and service beyond would be way freight, which definitely is not anywhere near as satisfactory a service as a motor carrier service.

Q. Have you had occasion to observe in recent months or in recent years the general policy of the motor carriers with respect to either curtailing or extending service to the intermediate points in Iowa or other territory which has come under your observation as to the policy that the carriers generally are following? What have you observed, if anything, in that respect?

Mr. Fowler: Just a moment, please. That is objected to as immaterial to any issue in the case. It is also objected to on the ground that it is calling for speculation and an incompetent conclusion and opinion of the witness.

Exam. Carpenter: Objection overruled.

A. The only way I could answer that is that we have had complaints from shippers. It seems to be the difficulty is getting service into the smaller points. To your larger points, there is adequate truck service from Chicago. We have approximately 400 common carrier truck lines out of Chicago and there is plenty of service to the larger points. It is the small destination where the shippers are experi-
[fol. 248] encing difficulty in having their shipments handled.

Q. Have you noticed any trend in that respect in recent months?

A. I couldn't answer that.

Mr. Fowler: Just a moment.

Mr. Howland: He said he couldn't answer that.

By Mr. Howland:

Q. Mr. Maurer, what is the position taken by you with respect to the application of the Motor Transit Company here as evidenced by the action of your committee, I believe you said?

A. Council, industrial traffic council.

Q. Industrial council, I believe you described it, with respect to this particular application?

Mr. Fowler: Mr. Examiner, may I ask a question preparatory to an objection?

Exam. Carpenter: Yes, sir.

By Mr. Fowler:

Q. Was there written minutes of this meeting?

A. There were. I don't have them with me, but I could present them as a late-filed exhibit if you desire.

Mr. Fowler: Objected to as not the best evidence, calling for hearsay.

The Witness: I was present at the meeting and I know that the minutes——

Mr. Fowler: I understand that.

Mr. Howland: We will ask the witness to answer the [fol. 249] question and to furnish upon his return to Chicago, to be made an exhibit, a copy of the minutes so far as it pertains to this application.

Mr. Fowler: The question is objected to on the ground it is immaterial, on the ground it is hearsay, on the ground that it is not the best evidence.

Exam. Carpenter: Objection overruled.

The Witness: Would you repeat your question, please?

(Question read.)

A. We appear in support of it.

By Mr. Howland:

Q. Particularly with reference to this restriction to 5,000 pounds which is found in the certificate presently issued by the Interstate Commerce Commission, in your judgment, based upon your experience, is it feasible for a common carrier serving a widespread area of the type and character of the Rock Island Motor Transit Company to operate with such a maximum limitation?

Mr. Fowler: Just a moment. It is objected to on the

ground that it calls for an incompetent conclusion of the witness without any qualification.

Exam. Carpenter: Read the question.

(Question read.)

Exam. Carpenter: Objection overruled.

A. In the past few years, I personally have attended scores of rate committee hearings, motor carrier rate committee hearings, and the carriers have repeatedly reported at those hearings that the smaller shipments are not paying [fol. 250] their way, that it is not a profitable operation.

By Mr. Howland:

Q. What would your conclusion be?

A. My answer would be that it would not be a practical operation.

Q. Do you have any knowledge of any carrier among the carriers that serve the City of Chicago that operate with a maximum restriction of 5,000 pounds handling general commodities?

A. I don't know of any; no.

Mr. Howland: You may cross-examine.

Exam. Carpenter: Mr. Fowler.

Cross-examination.

By Mr. Fowler:

Q. This document you were referring to is headed, "The Chicago Association of Commerce and Industry, Transportation Committee Bulletin No. 233, Package Car Service from Chicago, January 1952." What is this?

A. That is a monthly bulletin we put out showing the performance record of the package cars leaving Chicago. We have put that publication out for the past, I would say, 30 years, we have been publishing that.

Q. In checking this over, you found that there was package-car service to how many of the Iowa points involved in this application?

A. To the key points. I don't know how many. I have them checked there. Not to the smaller points.

Q. Referring entirely to a rail shipment from Chicago, [fol. 251] as I understand it, the package-car service will deliver the traffic to this key point and then it would be redistributed on way freight, is that it?

A. Way freight ordinarily would be the method of handling it; yes. Unload it from one car very often and transfer it across the platform and load it into a way freight, which might be on a bi-weekly or tri-weekly schedule.

Q. I presume you do use rail service, don't you, on a lot of your shipments to these Iowa points?

A. Yes; they do use rail. They use truck service, too.

Q. But you do use rail service? A. Oh, certainly, our shippers use rail service.

Q. And I assume your shippers intend to continue to use it?

A. They use rail service and they also use truck service and they hope to continue to use that, too.

Q. Now, I believe you stated that your committee had reviewed this application on March 7, 1952.

A. Yes.

Q. You reviewed the original application, did you?

A. We reviewed the original application, but, as you will read from the minutes when they are furnished, the action was that we not only supported that application but any subsequent application that may be filed which would ask for a full common carrier authority to handle both truckload and less-than-truckload. That was embodied in the minutes of that meeting.

[fol. 252] Q. I believe you said you checked several guides or directories.

A. Yes.

Q. And you discovered that there were 22 points that did not indicate any daily service by motor carrier other than Rock Island?

A. I said in our guide there were 22.

Q. What is the name of your guide?

A. Way to Ship, Motor Truck Section.

Q. Way to Ship, Motor Truck Section?

A. That is right.

Q. That is put out by the Chicago Association of Commerce and Industry?

A. Chicago Association of Commerce and Industry.

Q. Do you have a copy of that?

A. I do.

Q. The document which you have just handed me is a printed document, designated "Way to Ship From Chicago, Motor Truck Section, No. 62, published by the Chicago Association of Commerce and Industry Transportation Department," is that correct?

A. That is correct.

Q. And the Iowa points are listed in that directory commencing on page 71?

A. That is right.

Q. Continuing through page 77?

A. Correct.

[fol. 253] Q. What was the other guide you referred to?

A. I also checked Shipper's Guide.

Q. By whom is that published?

A. That is published, I believe the proper name is Shipper's Guide Company in Chicago.

Q. You don't have a copy of that?

A. No; I don't have a copy.

Q. What was the other?

A. The other was Leonard's Guide, published by G. R. Leonard Company.

Q. You don't have a copy of that?

A. No; I don't have a copy of that with me.

Q. Now, I think you testified in response to a question Mr. Howland asked you that as to these larger points involved in this application you now have adequate motor truck service, is that correct?

A. We do have truck service. We have several carriers serving the larger points, but the smaller points we do not have. Rock Island is the only one that we show as serving them.

Q. How many motor carrier services do you have available to you at the present time, say, from Chicago to the Davenport area?

A. We have 10 of our member companies that serve Davenport.

Q. 10 of your member companies?

A. That's right.

Q. Are motor carriers members of your association?

[fol. 254] A. Oh, yes; they are.

Q. In addition to the members, do you have any idea how many motor carriers there are operating between those two points?

A. These other guides I checked would indicate there are 12 others serving Davenport.

Q. Would you say that the present service then between Chicago and Davenport via motor carrier is adequate?

A. No.

Q. Let me put it another way. Do you think you need any additional motor carrier service between Chicago and Davenport?

A. I couldn't answer that.

Q. All right; from Chicago to Iowa City.

A. We only show two in our guide, McCoy and Rock Island.

Q. You know, of course, that there are many more, don't you?

A. Yes; there are others. Other guides show eight, but as I mentioned before, one of these, Tallcorn Motor Express, from what I have been able to determine, does not maintain a Chicago office.

Q. Let's take Chicago to Grinnell.

A. Grinnell, we only show Rock Island Motor. The other publications I checked show Iowa-Nebraska, Des Moines Transportation, Tallcorn Motor Express, and Western Transportation. Tallcorn again is the one——

Q. Take Chicago to Newton, Iowa.

A. Newton, Iowa, we show Keeshin, McCoy, Rock Island, [fol. 255] and Watson as member companies.

Q. When you say "member companies," you refer to members of your own association?

A. Of our own association; that is right.

Q. And of course your publication wouldn't show any other carrier that is not a member of your association?

A. Not the service. We show their names in the guide, but we don't show the service.

Q. Have you got at the present time adequate truck service between Chicago and Omaha, in your opinion?

A. There are several lines operating into Omaha, but I couldn't say whether it was adequate or not.

Q. So far as you know, there isn't any demand for any additional motor carrier service between Chicago and Omaha?

A. Probably not.

Mr. Fowler: I think I will have these identified and put in the record.

(The documents referred to were marked as interveners' exhibits Nos. 1 and 2, Witness Maurer, for identification.)

OFFERS IN EVIDENCE

Mr. Fowler: I would like, Mr. Examiner, to offer in evidence an instrument which has been identified by the reporter as exhibit No. 1, bearing the identification, "Chicago Association of Commerce and Industry, Way to Ship," published in January 1952, and the document which been iden-[fol. 256] tified by the reporter as exhibit No. 2, being a guide bearing the identification, "Way to Ship from Chicago, published by the Chicago Association of Commerce," both of which documents have been identified by this witness.

Mr. Howland: Are you willing to have those made a part of the record, Mr. Maurer?

The Witness: I personally have no objection. They are published documents. They are distributed widely.

Exam. Carpenter: You have no objection, Mr. Howland?

Mr. Howland: I have no objection.

Exam. Carpenter: Off the record.

(Discussion off the record.)

Exam. Carpenter: As long as there is no objection, the one that has been identified as exhibit No. 1 will be received in evidence as exhibit No. 1. The other one, identified as exhibit No. 2, will be received in evidence as exhibit No. 2. That is, as of this witness.

(Interveners' Exhibits Nos. 1 and 2, Witness Maurer, were received in evidence.)

Mr. Fowler: That concludes my cross-examination.
Exam. Carpenter: Any further cross-examination?
Mr. Cohn: Yes.

By Mr. Cohn:

Q. Mr. Maurer, as I understand, the basis for your support of this application is that the members of your industrial traffic council to whom you have referred desire a ser-
[fol. 257] vice through this applicant which would eliminate the necessity of shipping into the smaller points through reliance upon way-freight service of the railroads, am I correct in that assumption?

A. No. The Rock Island is the only carrier offering a motor carrier service into those points, and I would say the motor carrier service is better for the benefit of the Chicago market, and they want the more expeditious service.

Q. Then you are interested then in a service into all of these points that the applicant is serving?

A. We are interested in the truck service.

Q. In the State of Iowa?

A. That's right.

Q. Now, if the shipments then are handled by the trucks of the applicant on rail billing, how would any of your members be adversely affected?

A. I couldn't answer that question.

Q. You are not stating for the purposes of this record in this proceeding that they would be adversely affected if the shipments were made on rail billing?

A. It has never been discussed so I couldn't answer for the shippers on that.

Q. Now, you mention that there were three carriers of those that you find on your guide lists that operate into Iowa points that do not maintain terminal facilities in Chicago?

[fol. 258] A. Their own terminals.

Q. And I believe you named one, the Tallcorn.

A. Another one is Scotts Transportation Company and Thurwanger Transport Company. They are shown in the other guides to some points in addition to Rock Island Motor, and, incidentally, I might add of those three there

is one that does have a terminal in Chicago shown at certain points competing with Rock Island, but that is Eldon Miller, Incorporated. Now, they do maintain a Chicago terminal; but I checked the American Trucking Association's guide and they are shown in there as an irregular-route common carrier.

Q. Now, are the other three that you mentioned shown as regular-route common carriers?

A. These other guides don't state whether they are regular or irregular, and they are not listed in the American Trucking Association guide, none of the three.

Q. How many additional carriers did you find that serve other points involved in this application out of Chicago who do maintain terminals or offices in Chicago?

A. They vary with the different points, of course.

Q. Let's take a point like Des Moines, Iowa. How many carriers do you have listed there?

A. We have eight of our member companies and there are seven shown in other guides that are not members.

Q. In addition to the eight?

[fol. 259] A. Yes.

Q. A total of 15?

A. Yes. That also includes that Tallcorn I previously mentioned.

Q. How many do you show as serving Iowa City, between Iowa City and Chicago?

A. We show McCoy and Rock Island.

Q. That is, you show that in your own guide?

A. That's right.

Q. How many are shown in the other guides to which you have referred?

A. Eight, including, incidentally, Eldon Miller, Tallcorn, and Scotts Transportation.

Q. That would be a total then of 10 that would be shown in your guide and the other guides to which you have made reference?

A. That's right.

Q. How many carriers are shown serving Newton, Iowa, from Chicago?

A. We show four. Four member companies. Other publications show five.

Q. For a total of nine?
A. Yes.
Q. How many as to Grinnell?

Mr. Howland: Objected to as repetition. That has already been answered once.

By Mr. Cohn:

Q. Have you answered as to Grinnell?
[fol. 260] A. Yes.
Mr. Cohn. I will withdraw it.

By Mr. Cohn:

Q. Did you answer in connection with Grinnell as to both your member carriers and also the carriers shown in the other guides?
A. I don't know whether I did or not, but I will be glad to. Our own members, we show just Rock Island. Nonmember companies, we show four, including Tallcorn Motor that was previously mentioned.
Q. I would like to ask you one other point, and that is Atlantic, Iowa. What do you show as to service to Atlantic, Iowa, from Chicago?
A. Atlantic, Iowa, we show two.
Q. And how many are shown in the other guides?
A. Four.
Q. A total of six?
A. That's right.

Mr. Cohn: That is all I have.
The Witness: Incidentally, on this, in checking the other guide, we show two. They also show Brady. We don't list Brady on that point. They are a member of our association so whether Brady actually is serving Atlantic, Iowa, but they are a member company so it still nevertheless would be six carriers.

By Mr. Cohn:

Q. Six carriers, including Brady?
A. That's right.

[fol. 261] Exam. Carpenter: Any further cross-examination?

Mr. Fowler: Just one thing.

By Mr. Fowler:

Q. Referring, Mr. Witness, to this document which we have identified as exhibit No. 1 and purely so that I may qualify it a little more, is the material contained in this document material which you obtained from your members and then compiled in this document?

A. Oh, no. In compiling that bulletin, we get loading sheets from every freight house in Chicago every day, and we have our own forms with each destination and route on each and we show the date, we take the car initial and car number. At the end of the month, it is sent to the local freight agent at destination, who fills in the hour and date of arrival and the hour and date of placement for unloading and returns it back to us, and from that we compile that bulletin every month.

Q. You are satisfied that this document was accurate insofar as the information——

A. I am. As accurate as any publication could be.

Exam. Carpenter: Redirect.

Mr. Howland: That is all unless Mr. Maurer has something he wishes to add.

The Witness: No; I haven't.

Exam. Carpenter: Thank you, Mr. Maurer.

(Witness excused.)

Mr. Nolan: Mr. Gans, please.

[fol. 262] Paul E. Gans was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. State your name, place of residence, and occupation, please.

A. My name is Paul E. Gans, located in Moline, Ill., and employed by Deere and Company.

Q. What is your position with Deere and Company?

A. I am supervisor of truck transportation for Deere and Company and its subsidiaries.

Q. What territory does your duty take in?

A. United States and Canada.

Q. Now, Mr. Gans, would you briefly state for the record your experience in traffic details?

A. I was employed with three motor common carriers and a forwarder prior to coming to Deere and Company approximately 6 years ago, a total transportation experience of 19 years.

Q. And state whether or not you are familiar with the proposition proposed here by the Rock Island Motor Transit Company.

A. I am, sir.

Q. You have a statement you wish to make in connection with the application of the Rock Island Motor Transit Company?

A. I have a statement I would like to make to this effect, that we gave due and careful consideration to whether or not we had a valid interest in the application made here today and since amended and covered in the testimony here, [fol. 263] and we find or believe that we do have such a valid interest.

As a manufacturer of implements, we have some 7,500 dealers in this country that are located primarily in small communities. Like Mr. Maurer, the previous witness, I have participated in a good many rate hearings and I have had a private audience with a good many of the truck owners in this country. I have listened to their problems. We have seen a general trend on the part of the motor common carriers today to go to point-to-point operations. They advise us in a general way that owing to rising costs, labor, smaller volume to the smaller communities, that they are unable to maintain service to what we commonly know as the peddle runs or small communities.

Mr. Cohn: Just a moment. I am going to object to the general nature of the testimony. It is very interesting, but it is immaterial and irrelevant to any issue in this proceeding. We are concerned here with a specific area of operation, not with the United States and Canada and

other points where these 75,000 customers of this company might be located.

The Witness: Mr. Cohn, if I said 75,000 I meant 7,500, if that is the case.

Exam. Carpenter: Objection sustained.

Mr. Nolan: I might say, Your Honor, we will tie it in with the instant application.

[fol. 264] Exam. Carpenter: Go ahead with questions and answers.

Mr. Fowler: Wouldn't it be better to ask the witness a question and let him answer and give us a chance to object? He is reciting a lot of hearsay.

By Mr. Nolan:

Q. Mr. Gans, have your made in the course of your duties an observation and investigation of the trend of service being performed by independent motor carriers with respect to service to the small point, the small town?

A. I have, sir.

Q. What have you found in that respect, and particularly insofar as it affects the territory involved in this instant application?

Mr. Fowler: Object to that on the ground it is immaterial and on the ground it calls for the incompetent conclusion of the witness.

Exam. Carpenter: Objection overruled.

A. I have ascertained that carriers operating in what we might term here as the Middle West—Illinois, Iowa, Nebraska—that there is a tendency on the part of those carriers to discontinue service or curtail it to the smaller communities. I have evinced that information or secured it from the operators themselves who have come to me to tell me of their plights.

Mr. Fowler: I move that the answer be stricken on the ground it is purely hearsay.

Exam. Carpenter: Motion overruled.

By Mr. Nolan:

Q. State whether or not, Mr. Gans, you have participated

[fol. 265] at various times with motor carriers in their rate-making conferences and in their transportation conferences and things of that character in the territory affected by this application?

Mr. Fowler: Objected to on the ground it is immaterial to any issue in the case.

Exam. Carpenter: Read the question, please.

(Question read.)

Exam. Carpenter: Objection overruled.

A. I have, sir.

By Mr. Nolan:

Q. Now, Mr. Gans, state whether or not you are familiar and have been familiar with the transportation services afforded by the Rock Island Motor Transit Company prior to any restriction or limitation on its operations.

A. I am familiar and have been familiar with it.

Q. What was the character of the service in the territory served by them?

A. The character of the service was satisfactory.

Q. And state whether or not, so far as your company's needs are concerned, if there is a reasonable need for a continuation of the same type and character of service as was performed by the *by the* Rock Island Motor Transit Company before there was any restriction or limitation placed on its operations in the territory involved in this case.

A. We believe there is a necessity for it.

[fol. 266] Q. Would you state why you have that belief?

A. As an opinion, we feel that Rock Island Motor service has served our interests in the smaller communities and to the larger communities, and further that we as one shipper need very definitely the service to the smaller communities, and it is our opinion that no motor common carrier, whether it be Rock Island or any other, can long survive without traffic to the so-called key points in order to support the over-all service.

Q. Now, Mr. Gans, I believe you stated prior to going

to John Deere and Company you had had independent truck experience.

A. Yes, sir.

Q. In the answer that you have just given, state whether or not that opinion is based upon your experience in the trucking business as well as your experience with John Deere and Company.

A. Predicated on both experiences.

Q. Is there anything else, Mr. Gans? Just a minute.

Now, Mr. Gans, state what your opinion is, if you have an opinion, as to the effect that a limitation, say, of 5,000 pounds maximum shipment would have upon the operations of the Rock Island Motor Transit Company or any other carrier who attempted to perform an over-all service in this territory.

Mr. Fowler: Objected to on the ground that it is immaterial, calls for an incompetent conclusion of the witness unless it is confined to his own knowledge of the application of the restriction to the shipments of his own company.

[fol. 267] Exam. Carpenter: Objection overruled.

A. It is my opinion, and I believe I made that statement a few minutes ago, that no carrier could long exist with a restriction of 5,000 pounds.

By Mr. Nolan:

Q. And state what are the sizes of the shipments made by your company in the territory involved in this application.

A. We make anything from a minimum shipment to a volume truckload shipment.

Q. Is there another traffic department connected with the John Deere organization?

A. We have any number of traffic departments as to factories and to branches over which I have supervision.

Q. And how about the John Deere Plow Company; does that have a traffic department?

A. For a matter of clarification, all of our sales branches are known as John Deere Plow Company. We have one at Moline, Ill., that embraces perhaps 60 to 75 percent of the

State of Iowa in the instant hearing and the John Deere Plow Company of Omaha has the western or remaining portion.

Q. As I understand it, then, the John Deere Plow Company of Moline, Ill., serves the eastern part of the State insofar as the dealers are concerned, is that correct?

A. Well, Mr. Nolan, a little more than the eastern part of the State, but just to confine it, yes, sir.

[fol. 268] Q. What is the fact as to whether or not Mr. Stevens is a traffic manager for that segment of the organization?

A. Yes, sir; Mr. H. H. Stevens.

Q. What is the fact as to whether or not many dealers out in the small communities do not have shipped direct from the factory many parts and implements rather than getting them through their district offices?

A. Well, the branch for the most part is to supply its own dealers. Where, for one reason or another, it is better to ship directly from the factory, it is sometimes done. That is the exception rather than the rule on the small shipments. I am qualifying it to the small shipments rather than the rule.

Q. What is the fact as to whether or not some do go out; there is a general flow of shipments from the factory to your small points?

A. That is right.

Q. For special parts?

A. That is right.

Q. Or where the branch doesn't have it in stock or something like that?

A. That is right.

Q. Now, insofar as this present application is concerned, what particular points are you familiar with that, in your opinion, require the service as proposed by the applicant?

A. Specifically, from the Tri-City area, which is composed of Moline and East Moline, Ill., in part, where we [fol. 269] have factories and a branch house, we find that we primarily require service to the following points—if you wish them named.

Q. Would you name them, please?

A. Adair, Iowa, Anita, Atlantic, Audubon, Avoca, Gris-

wold, Guthrie Center, Hancock, Harlan, Minden, Neola, Oakland, and Stuart. We have dealers located at those 13 points.

I am embracing in those points specifically, Mr. Nolan, the points covered by the sales branch at Omaha, Nebr. I will have a man here from the John Deere Plow Company to later testify to the so-called eastern half of Iowa as to his problems, experiences, and so forth.

Q. Now, Mr. Gans, the fact that the Rock Island Motor Transit Company has facilities it does have for handling claims and things of that character, does that have any particular interest to your company?

A. Yes; I think it does to any company. I mean the matter of how a company handles its claims.

Q. Do you know of any company that provides the same local service between the Tri-City area and these so-called small towns that the Rock Island Motor Transit Company has provided your company in the past?

Mr. Fowler: Objected to as repetition. It is objected to because the question is too broad, the witness having testified already as to the points to which he felt that there wasn't adequate service.

[fol. 270] A. No, sir.

Exam. Carpenter: Do you want to reframe your question?

Mr. Nolan: I think the question is all right: I asked him if he knows of any other transportation, motor common carrier that provides the same service that the Rock Island Motor Transit Company has provided in the past to these small towns he has named from the Tri-City area.

Exam. Carpenter: Does he know anything about it other than to the small towns he has mentioned?

Mr. Nolan: That is what I said, to those he has named.

Exam. Carpenter: Can you answer to the towns you have named?

The Witness: We have no service to the cities that I have mentioned other than Rock Island Motor Transit Company with complete terminal facilities in the Tri Cities.

Mr. Nolan: You may cross-examine.

Exam. Carpenter: Mr. Fowler.

Cross-examination.

By Mr. Fowler:

Q. On that last answer, you did qualify your statement. What you meant to say was that insofar as you know there is no present motor carrier service to the points you have indicated from Moline, Ill., by carriers that maintain a regular terminal facility at Moline?

A. That is right, Mr. Fowler.

Q. Now, as I understand it, the product which you ship, [fol. 271] generally speaking, are assembled farm implements?

A. And parts.

Q. First, assembled farm implements?

A. I would say for the most part in what is being considered here, it would be parts.

Q. As I understand it, your assembled implements are handled by truck direct to your dealer or to the customer by carriers other than those that are involved here.

A. You mean others handle it, too?

Q. I am talking about your assembled implements. Most of those move into the Iowa territory by truck, don't they?

A. That is right.

Q. And they are not common carrier truckers, are they, most of them?

A. Primarily everything we move is by common carrier.

Q. Does Rock Island Motor Transit handle for you any assembled farm implements into this territory?

A. Assembled in the sense if you mean knocked down. Very few set up, Mr. Fowler. I would like to qualify it as to what you mean by assembled.

Q. What I mean by assembled is not knocked down.

A. Very few set-up implements.

Q. Now, I still don't understand your answer. Do they or do they not handle assembled farm implements? When I say "assembled" I mean ready to run off the platform on the field.

[fol. 272] A. For the most part, no, Mr. Fowler.

Q. That is, in other words, that type of transportation service is rendered by carriers other than the type we are talking about here?

A. Primarily so.

Q. So far as your need for common carrier service from the Moline area into the territory involved in this application, it consists largely of repair parts, is that correct?

A. Repair parts and knocked-down implements.

Q. And knocked-down implements. Now, with respect to volume, to what points involved in this application would you have any need for volume service from Moline and when I am using the term "volume," let's take it first at 2,000 pounds and then take it next at 5,000 pounds?

A. We would need service in both cases to all points.

Q. Now, what would a shipment exceeding 2,000 pounds consist of that was moving from Moline, Ill., to Moscow, Iowa?

A. I don't believe I testified as to Moscow, Iowa.

Q. Maybe you didn't. All right, from Moline, Ill., to Stuart, Iowa.

A. It could consist of knocked-down implements or parts, Mr. Fowler.

Q. It would be a shipment in excess of 2,000 pounds?

A. It could be.

Q. As a matter of fact, ordinarily it would not be, would it?

[fol. 273] A. I would say that 2,000 might be an average or above average. I mean for the so-called parts shipments.

Q. Let me put it this way: In the ordinary course of business, the shipments which would move from Moline to Stuart would be less than 2,000 pounds?

A. I would say that is probably true.

Q. And I think that would be generally true to all of these other points which you named, would it not?

A. There is the possibility there might be Atlantic in there for one that I am aware of that would receive, generally speaking, larger shipments than 2,000.

Q. Wouldn't it be exceptional if you had a shipment of as much as 5,000 pounds from Moline to any one of these points you have named?

A. I would say it would be the exception rather than the rule; yes.

Mr. Fowler: I have no further questions.

Exam. Carpenter: Any further cross-examination?

By Mr. Cohn:

Q. I would like to inquire as to the contract carrier motor service available to your company into these Iowa points you have named.

A. We don't use, Mr. Cohn, the contract carrier to any great extent at all, none to these points here that I have mentioned, and the over-all percentage we would use a contract carrier to dealers would be less than 2 percent of a $300,000-a-year volume on the part of the contract carrier [fol. 274] to whom I think you refer.

Q. Now, all of the shipments that would be involved in this application would be to your dealers, am I correct?

A. No; not necessarily. They would also go to warehouses or transfer houses or sub-branches, as you might designate them.

Q. Now, are any of your dealers supplied through branches or warehouses that you maintain in the State of Iowa?

A. They can be, Mr. Cohn.

Q. Where are those branches at?

A. At Des Moines and Cedar Rapids.

Q. What are the nature of the facilities you maintain at Des Moines and Cedar Rapids?

A. They are warehouses, what we commonly know as transfer houses. They carry a stock.

Q. You also maintain a factory or other type of manufacturing facility at other points in the State of Iowa, do you not?

A. We do. We have a plant at Ottumwa, Iowa, and we have one at Waterloo, Iowa. We have one here at Des Moines and one at Dubuque as well as six or seven in the Tri Cities.

Q. What are the nature of the articles that are manufactured or supplied from those plants that are maintained at the latter points that you named?

A. You mean the Iowa points or the——

Q. Let's take Ottumwa. What do you have at Ottumwa? [fol. 275] A. We make, for one product, a hay baler and

of course parts that would go with it would be shipped, too.

Q. What is your Dubuque factory?

A. Dubuque makes tractors.

Q. Is that also true of Waterloo?

A. Waterloo makes tractors.

Q. You also maintain stocks of repair parts at your factories located at these Iowa points?

A. Very small. What I mean, they are shipped out in shipments to the transfer houses or branches, but they do carry a small stock.

Q. Is it your practice to ship your products into the warehouses and then supply your dealers from the warehouses in Iowa?

A. No. As a general rule, on our over-all picture, Mr. Cohn, the general proposition is to ship all completed goods, I believe the assembled type goods Mr. Fowler was referring to, direct from factory to dealer wherever possible.

Mr. Cohn: I believe that is all I have.

Exam. Carpenter: Any further cross-examination? Redirect.

Redirect examination.

By Mr. Nolan:

Q. Mr. Gans, what are the farm implements that are manufactured in the Tri-City area which would move into this territory in interstate commerce?

A. Plows, wagons, spreaders, combines—to mention a few.

By Exam. Carpenter:

Q. Those articles are manufactured by the John Deere [fol. 276] Company?

A. Yes; at the Tri Cities.

By Mr. Nolan:

Q. Those implements can either move assembled or knocked down, can they not?

A. With the exception of the combine, Mr. Nolan.
Q. They all move in set up?
A. That is right.

Mr. Nolan: That is all.
Mr. Fowler: No further questions.
Exam. Carpenter: You are excused.

(Witness excused.)

D. R. MacDonald was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, please, and in giving your testimony speak up so that all may hear.
A. D. R. MacDonald.
Q. You live where, Mr. MacDonald?
A. Palatine, Ill., a suburban town about 25 miles northwest of Chicago, Ill.
Q. You are employed by whom, Mr. Macdonald?
A. Employed as traffic manager, Chicago branch of Butler Brothers.
Q. What is the business in which Butler Brothers is engaged?
A. Wholesale general merchandise.
[fol. 277] Q. And in what territory does the Chicago branch house of Butler Brothers sell or service accounts?
A. Well, to name the States it would be Ohio, Michigan, Wisconsin, Indiana, Illinois, Iowa, Nebraska, Colorado, Wyoming, Utah, Nevada, Arizona, California, Oregon, Washington, and Idaho, Alaska, Hawaiian Islands, and once in a while a few of the overseas islands, Marianas, and so on.
Q. As traffic manager of the Butler Brothers branch, I take it you have supervision over making shipments, routings, and matters of that sort?
A. For shipments from the Chicago branch, that is right, or for customers of the Chicago branch.
Q. About what volume of shipments would you have

moving from that branch in number on a weekly basis or in any other way that you could estimate it?

A. To what points?

Q. To the points in this western territory such as Iowa, Nebraska, and the points you have referred to here.

A. Well, we handle roughly 15,000,000 pounds of freight a year and what comes in goes out, so I couldn't confine that to States.

Q. Well, about how many stores or dealers do you service in the State of Iowa? Break it down a little.

A. About 150.

Q. And are some of those dealers or accounts located on or adjacent to U. S. highway 6?

[fol. 278] A. They are.

Q. About how many would you say would be on or adjacent to U. S. highway 6?

A. About a dozen.

Q. Now, Mr. Macdonald, about what is the volume of your shipments on an average, about what size will they run or between what limits will they normally run?

A. Well, I would say an average day in and day out shipment would probably weigh approximately 300 pounds.

Q. What type and character of merchandise is it in which you deal and which you have occasion to ship?

A. The biggest portion of our type of merchandise is what is normally found in a variety store or a small dry-goods store.

Q. And do you have occasion to make shipments of more than 5,000 pounds normally in your business?

A. Only, frankly, on store openings.

Q. That is everything a new store——

A. That is when a new store is being established at some point; yes, sir.

Q. So ordinarily you would not be interested from a day-to-day basis in shipments in excess of 5,000 pounds?

A. Frankly, no.

Q. What has been your experience with respect to the handling of these smaller shipments of 3 to 5 hundred or a thousand pounds from your Chicago house to destinations on U. S. highway 6 in Iowa?

[fol. 279] A. Well, from some carriers we are receiving

excellent service and some carriers very poor service. I think that is what you are getting at.

Q. What points are you particularly interested in at present located on or adjacent to U. S. highway 6 where service is provided from Chicago?

A. Audubon, Brooklyn, Colfax, Exira, Grinnell, Marengo, Newton, Oakland, Shelby, Stuart, and Victor.

Q. Places like Victor, have you had experience with any carriers other than the Rock Island Motor Transit Company at that particular point?

A. As far as I know offhand, they are the only carrier serving Victor.

Q. What has been your experience generally with respect to getting service to these points that you have listed as being on or adjacent to U. S. highway 6 from carriers other than the Rock Island Motor Transit Company?

A. Well, I can best answer that by a pickup survey that I have here. Bos has a hundred-percent response to pickups for January. For February they missed us on 33 percent of the calls. They missed us 4 days out of 12 calls.

Q. When you say they missed you, what do you mean?

A. I mean they did not respond for a pickup, for calls placed prior to 9 a. m. in the morning.

[fol. 280] Q. That is at your Chicago house?

A. That is at our Chicago house. March, they have missed us 1 day out of 3 calls.

Brady for January, 69 percent missed. They missed 4 out if 16—5 out of 16, pardon me. Brady for February missed us 40 percent of the time. They missed us 2 out of 5 calls. We have not been able to secure a pickup from them in the month of March.

Des Moines Transportation missed us once out of six for January. Perfect all calls on February and all calls on March.

Iowa-Nebraska, a hundred percent on all 3 months so far.

McCoy missed 3 out of 13 calls for January, 4 out of 12 calls for February, 3 out of 8 calls for March.

Rock Island Motor has been a hundred percent in all 3 months so far.

Watsons missed 7 out of 15 calls for January, 5 out of

16 calls for February, 3 out of 10 calls for March, and that seems to be all of the carriers that I have shown here serving points on highway 6.

Keeshin is shown as a carrier serving many of those points. However, we have had to discontinue them. We were advised, I should say, by Keeshin about February or thereabouts of last year that they were not accepting shipments for Iowa and we have never rechecked to see whether they since have changed.

Q. Now, with respect to these shipments, when you say that the particular carrier missed the call, does that mean [fol. 281] that the carrier either failed to get it that day or failed to get the shipment entirely? What is the situation?

A. No; that meant that he failed to get that shipment that day.

Q. That day.

A. It is entirely possible in most cases they picked up the following day or maybe in some cases it has been 2 days later or 3 days later.

Q. Now, have you made any investigation during that period with respect to the time in transit from point of origin to destinations by these various carriers?

A. In the time covered by these pickup reports, no.

Q. Have you done that from time to time in the past, Mr. Macdonald?

A. It was made the last time in, I believe it was September of last year.

Q. Can you tell us anything about the results that were shown there with respect to the time in transit between origin points and destination?

Mr. Fowler: Just a moment. That is objected to as immaterial, the time being too remote.

Exam. Carpenter: Objection overruled.

A. I could substantiate it with figures, but I unfortunately left it in Chicago.

By Mr. Howland:

Q. You didn't bring that out with you?

A. I did not.

Q. You don't recall?

[fol. 282] A. I would not want to be quoted on exact times; that is right.

Q. All right, sir. Do your records which you have here reflect the points of destination of the shipments for which these calls were made to the various carriers?

A. Not day by day. The only thing that I would be able to do would be to go through the complete list of customers that I have here and this complete list also shows the name of the carrier serving that particular account, but as to saying that a particular shipment was missed on a particular day, I can't do that.

Q. For instance, those shipments for which Iowa-Nebraska was called for service and which you say the service was a hundred percent——

A. That is right.

Q. —or for which the Rock Island Motor Transit response was a hundred percent, can you tell us what the destinations of those shipments were?

A. Well, again I would only have to read off all the names of the towns that Iowa-Nebraska is serving our customers in and also Rock Island Motor.

Q. Have you within the past 6 months had any request from the customers in the territory that is here involved on or adjacent to U. S. highway 6 for a change in the carrier to handle shipments to that particular destination?

A. Well, there again I, by process of elimination, could [fol. 283] give it. I have had all of the customer routing change requests along with me here, but it is sorted out by carriers.

Q. By that do you mean——

A. In other words, shall I say if you gave me a particular carrier I could tell you whether in the last 6 months we have had a requested change to that carrier.

Q. Change to that or from that carrier?

A. No; to that carrier. From the carrier I couldn't tell you. We don't make that a part of our record.

Q. The record is kept with respect to the carrier to which the request for change is made——

A. That is right.

Q. —by the customer?

A. That is right, and there is no prior impression made on the routing request change.

Q. What generally has been the service rendered, character of the service rendered by the Rock Island Motor Transit Company to Butler Brothers in the territory in Iowa on or adjacent to U. S. highway 6?

A. Well, I personally have heard no complaints from our customers with reference to their service, and, as I say, our own experience in January has been a hundred percent response to our pickup requests.

Q. In the event of a discontinuance or substantial curtailment of the present service rendered by Rock Island [fol. 284] Motor Transit Company to these Iowa points, would that in any way adversely affect your business, Mr. Macdonald?

Mr. Fowler: Just a moment, please. That is objected to as immaterial for the reason that I haven't heard anybody say that the Rock Island is going to curtail its service. It is objected to as immaterial as this record now stands.

Mr. Howland: I thought you heard Mr. Farrington testify.

Exam. Carpenter: Objection overruled. Go ahead.

Mr. Fowler: Just a moment. I do want to make the objection on the ground that it is immaterial, and I don't find any basis in this record which would justify a conclusion that the Rock Island Motor Transit Company has any intention of curtailing its service no matter what may be the outcome of this application.

Exam. Carpenter: Go on, Mr. Macdonald; go ahead.

Mr. Howland: Do you have the question in mind, Mr. Macdonald?

The Witness: As I recall, the question was, what effect would——

Exam. Carpenter: Read the question.

(Question read.)

Mr. Rosenbaum: Does he mean the operation under the temporary authority, Mr. Howland?

Mr. Howland: Curtailment of service presently rendered.

Exam. Carpenter: That is under the temporary authority?

Mr. Howland: Yes.

A. Of course, I can only answer that by stating that any [fol. 285] curtailment of service, frankly, any place in our territory is detrimental to us because it eliminates the free choice of routing our shipments. We, frankly, continually find ourselves searching for new and better means of transportation. Anything that reduces that choice naturally we feel would adversely affect us.

Mr. Howland: I think you may cross-examine.

Cross-examination.

By Mr. Fowler:

Q. I have just one question, Mr. Macdonald. At the time that freight is picked up at your Chicago dock by Rock Island Motor Transit Company, is the rail-billed freight and truck-billed freight taken up at the same time?

A. No.

Q. There is a separate——

A. We have a separate shipping room for rail and for motor.

Q. You have a separate shipping room for rail freight?

A. Yes.

Q. You do use rail service out into this territory?

A. We do.

Q. As well as motor carrier service?

A. We do.

Q. By several carriers?

A. By several carriers.

Mr. Fowler: That is all.

By Mr. Rosenbaum:

Q. You like to have as many carriers available to you as [fol. 286] possible, don't you?

A. That is right, sir.

By Mr. Cohn:

Q. What are the communities in Iowa where Iowa-Nebraska Transportation is presently serving your company?

A. You are serving us to one customer—Frankly, this list of customers is by customer name alphabetically, and I may repeat the towns as I go along. You have one customer here in Des Moines. Here is another at Colfax. Belle Plaine. Nevada. Ogden.

Mr. Nolan: Those are off-route points.

Mr. Howland: Those are off highway 6, those last three.

The Witness: You put the question of what towns was Iowa-Nebraska serving us.

Mr. Howland: Go ahead.

A. Winterset. Louden, Jefferson. Another at Des Moines. Scranton. Another at Des Moines. Cedar Rapids. Another at Des Moines. Sioux City, Guthrie Center. This one I am going to have to spell, O-n-a-w-a. Ames. Victor. Nevada. Tama, and Marion.

Mr. Cohn: That is all.

Exam. Carpenter: Redirect.

Mr. Howland: Nothing further.

Exam. Carpenter: You are excused.

(Witness excused.)

Exam. Carpenter: We will take a 5-minute recess.

[fol. 287] (Short recess.)

Exam. Carpenter: Call your next witness.

D. R. Macdonald, recalled, testified further as follows:

Further Direct Examination.

By Mr. Howland:

Q. Mr. Macdonald, just one or two questions further. You have referred to the fact that on certain occasions that you have had requests for service via particular motor carriers.

A. That is right.

Mr. Howland: I will ask the reporter to mark this as exhibit No. 3, and we will ask leave to substitute a copy for the document so that you can withdraw it and keep it as a part of your files.

(The document referred to was marked as "Applicant's Exhibit No. 3, Witness Macdonald," for identification.)

By Mr. Howland:

Q. Is this exhibit No. 3 one of the requests for routing that you have reference to?

A. That is right. It is a letter received on October——

Mr. Fowler: Just a moment, please.

OFFER IN EVIDENCE AND OBJECTION THERETO

Mr. Howland: We will offer and introduce in evidence the applicant's exhibit 3.

Mr. Fowler: Objected to on the ground it is immaterial, on the ground it is a self-serving declaration, on the ground [fol. 288] that it is hearsay, no opportunity to cross-examine to ascertain the underlying reasons for the letter.

Exam. Carpenter: For the purposes of the record, you may read the letter into the record, but the exhibit will be rejected; just to show what it covered, that is all, Mr. Fowler. I am not accepting it as a part of the record at all. I just want it in the record to show what was rejected.

(Applicant's Exhibit No. 3, Witness Macdonald, was rejected.)

Mr. Howland: Just read the letter to the reporter.

The Witness: It is a letter of October 20, 1951, from R. M. Hildman, Hildman's 5-to-a-Dollar Store, Marengo, Iowa. It is addressed to Butler Brothers, Chicago, Ill., attention traffic department, and reads as follows: "Would like to have merchandise come by Rock Island Motor. Rock Island delivers merchandise to us daily. Iowa-Nebraska line only twice a week and merchandise leaves your house Wednesday, arrives in Marengo the following Tuesday. Yours truly, (signed) R. M. Hildman."

By Mr. Howland:

Q. That is the original letter received by you?

A. That is the original received by us; that is right.

Mr. Howland: There is no further examination.

Exam. Carpenter: Mr. Fowler.

Mr. Fowler: That is all.

(Witness excused.)

[fol. 289] Mr. Nolan: Mr. Lussa.

BERNARD J. LUSSA, was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. State your name, place of residence, and occupation please.

A. Bernard J. Lussa, Chicago, Ill.

Q. What is your occupation?

A. Traffic manager, Rexall Drug Company, Chicago branch.

Q. Do you understand the general scope covered by the instant application?

A. Generally speaking, yes.

Q. That is, for the interstate traffic service from Chicago into the middle section across Iowa?

A. That's right.

Q. What shipments does your company have occasion to make into the Iowa territory on or adjacent to the line served by the Rock Island Motor Transit in this case?

A. There are approximately eight points involved, Brooklin, Iowa, Colfax, Des Moines, Grinnell, Iowa City, Marengo, Victor, and West Liberty, Iowa.

Q. Are your company's shipments of drugs and sundries ordinarily handled by drug stores?

A. Yes; that is correct. In other words, every consignee is a druggist; as a matter of fact, before we give the [fol. 290] account a franchise, there must be a registered pharmacist involved.

Q. They are locally owned drug stores who handle the Rexall lines of pharmaceuticals and sundry supplies?

A. Yes, sir; that is correct.

Q. What are the ordinary size of your shipments into this territory?

A. As a general average, it would approximate about 360 pounds. In other words, there is a range, but as an average.

Q. With what frequency do your shipments move into these particular stores in the towns you have named from your Chicago warehouse?

A. That would be hard to say. It depends on the particular account. I would say over a period of 8 months to those particular destinations named, it would approximately be about 70,000 pounds.

Q. I say, with what frequency——

A. It depends, of course, on the orders of the account. In certain cases, the account may order twice a week or once a week, depending on the account. In other words, we don't have any set shipment schedule except maybe in sale shipments which may be received at a prior time and will ship maybe when more or less convenient just to be sure that the sale dates are respected.

Q. Has your company used the service of the Rock Island Motor Transit Company for handling those shipments to those Iowa points you have named from Chicago?

[fol. 291] A. Yes, sir.

Q. What has been the nature of that service? A. That has been very favorable. I have been with the company 4 years and Rock Island Motor Transit was used formerly also. In other words, those routings were employed before my employment with the organization also.

Q. And have you had routing from your dealers in these towns specifying any particular carriers to serve those stores in those towns?

A. No; I haven't. In other words, I mean we have had those routings in effect and there hasn't been any changes or any complaints whatsoever.

Q. Now, why are you here in support of this application?

A. Well, in our particular business, as mentioned by previous witnesses, a good portion of our business is done with accounts located in these smaller towns and involving these peddle runs and therefore we have found that the services of Rock Island Motor Transit have been favorable in that respect; and we are afraid that if their service is discontinued or curtailed in any way it would jeopardize our position or our interest.

Q. Do you know of any other carrier that will give the same regularity of service to these small towns that you have enumerated in this application as that given by the Rock Island Motor service?

Mr. Fowler: Objected to as calling for the incompetent [fol. 292] conclusion of the witness.

Exam. Carpenter: Objection overruled.

A. Offhand, I don't know of any other carrier that would be able to do it. In other words, I am not saying it can be done or can't be done.

By Exam. Carpenter:

Q. You are just giving that as your opinion, is that right?

A. Yes; that is right, that is my opinion.

By Mr. Nolan:

Q. What would be the effect on your company's business in regard to its sales our outlet for its products to these towns you have named along this route if the services of the Rock Island Motor Transit Company were stopped?

Mr. Fowler: Objected to as immaterial, calling for an incompetent conclusion of the witness, calling for pure speculation and conjecture.

Exam. Carpenter: Objection overruled. You may answer.

A. In my opinion, it would be a question, of course, of the community being involved because of the nature of our item. In other words, I mean these drug lines include pharmaceuticals and it is a question also of competition. I mean there may be local jobbers that they would probably swing most of their business to in contrast to ours. In other words, when we give this franchise, that doesn't mean that they are precluded from buying from other jobbers, so to speak.

By Mr. Nolan:

Q. Let me ask you this: Does the Rexall store, say for

[fol. 293] instance in West Liberty, Iowa, have any other source of supply of Rexall products other than from the Chicago warehouse of the Rexall company?

A. We have of course other distribution warehouses, but for the Middle West part of that territory, it is serviced by the Chicago branch, that is right. In other words, I mean we have exclusive control over our items and we don't deal with any other wholesaler, so to speak.

Q. I mean, there isn't any other source of supply for Rexall products for eastern Iowa except out of your Chicago house, is that right?

A. Yes, sir.

Mr. Nolan: That is all. You may cross-examine.

Exam. Nolan: Mr. Fowler.

Cross-examination.

By Mr. Fowler:

Q. As I understand it, you have used Rock Island Motor Transit Company for several years?

A. Yes.

Q. And you are still using them——

A. Yes.

Q. —to the exclusion of any other common carrier serving these points?

A. Yes, sir.

Q. You want that service continued?

A. Yes, sir.

[fol. 294] Q. And you control the traffic and direct the routing?

A. On the outbound distribution.

Q. From your Chicago office?

A. Yes, sir.

Q. And your shipments consist largely of drugs in shipments of somewhere around 350 pounds?

A. Approximately. That is the general average.

Q. You haven't used any other carrier?

A. For these particular points? No; we haven't.

Mr. Fowler: That is all.

Exam. Carpenter: Any further cross-examination?

Any redirect? You are excused.

(Witness excused.)

ROBERT OZINGA was sworn and testified as follows:

Direct Examination.

By Mr. Nolan:

Q. Will you please state your name, place of residence, and occupation, please?

A. Place of residence also?

Q. Yes.

A. Robert Ozinga, residing in La Grange Park, Ill., employed by Sprague-Warner, a division of Consolidated Grocers Corporation, Chicago, Ill.

Q. What are your duties with Sprague-Warner Company, Mr. Ozinga?

A. I am the traffic manager.

[fol. 295] Q. What products does your company manufacture or distribute?

A. Wholesale groceries.

Q. Are you familiar with the territory covered by the instant application?

A. Yes.

Q. And does your company have accounts in the territory covered by the present application?

A. Yes, sir; we do.

Q. Are you able to enumerate, locate some of those towns?

A. Well, I could read from the list, of course. Would that be permissible?

Q. Surely.

A. Those embraced in the application, I did check to see the recent accounts that we have. We are shipping groceries from Chicago to the following points in Iowa, based on a survey within the last 6 months: Adel, Atlantic, Audubon, Avoca, Brayton, Colfax, Council Bluffs, Davenport, Des Moines, Dexter, Durant, Grinnell, Harlan, Iowa City, Marengo, Minden, Neola, Newton, Oakland, Redfield, Stuart, Victor, and Wilton Junction, and to clarify that,

that list as I said—I want to specify again—that was just the last 6 months' period.

Q. Would you say that you have had accounts in those points or towns for many years?

A. Quite substantially for quite a number of years, long before I came to Sprague-Warner.

[fol. 296] Q. What is the frequency of shipments to those various towns or points, Mr. Ozinga?

A. It will vary according to the number of times, of course, our sales representative calls on the account and the size of the account, but, generally speaking, the minimum would be twice a month and in many cases it is a weekly shipment.

Q. What would you say would be the average size of your shipments going into those points that you have enumerated?

A. About 500 pounds.

Q. What facilities has your company used to get merchandise from your Chicago place of business to these points in the past?

A. Exclusively by common motor carrier as far as the retail stores are concerned in the State of Iowa.

Q. And what particular carrier or carriers have handled shipments from your company in Chicago to these points in Iowa you have enumerated?

A. The points enumerated would be Rock Island Motor, Des Moines Transportation Company, Prucka Transportation Company, Takin Brothers—if Cedar Rapids is in there. Is that included?

Exam. Carpenter: Omit Cedar Rapids.

A. I don't think I read Cedar Rapids. I don't see it listed on this particular list, so scratch out Takin Brothers so far as Cedar Rapids is concerned.

Rock Island Transfer and Storage Company. That would cover the list, I am quite sure.

[fol. 297] By Mr. Nolan:

Q. Have you made any observation with regard to service to what we call the so-called smaller towns or non-key-point towns?

A. Yes; I have.

Q. What company has handled your traffic to those points that you have enumerated?

A. By and large, the Rock Island Motor has proved to be the most reliable carrier to these smaller towns.

Q. Have you had any experience and made any observation of the service offered by some highway carriers in serving only the so-called key towns or bigger points?

Mr. Fowler: Objected to as immaterial, calling for the conclusion and opinion of the witness in the territory involved.

Exam. Carpenter: Objection overruled. Go ahead.

By Mr. Nolan:

Q. In the territory involved?

A. Not recently. We have had some bitter experiences in the past, within the last 3 or 4 years, and now because of the fact the routings have been set up on many of these small towns that I enumerated as moving exclusively by Rock Island Motor Transit Company, through my surveys and correspondence with customers in the Iowa territory and our sales representatives in the State of Iowa.

Q. Do you know of any other facility other than the Rock Island Motor Transit Company who offers the same type of service to these small towns that you have enumerated in the application involved in this case?

[fol. 298] A. I know of none. For broad coverage, I know of none.

Q. What would be the effect upon your company's business if there was a cessation of the Rock Island Motor Transit Company in the Iowa territory and the points you have enumerated?

Mr. Fowler: Objected to as immaterial for the reason that there is no showing in this record upon which any satisfactory conclusion could be based that the Rock Island Motor Transit Company intends to terminate its service irrespective of the outcome of this application.

Exam. Carpenter: Objection overruled.

A. It would be very disastrous due to the fact that our business is based on the selling of groceries to the inde-

very recent ruling of the Iowa Commerce Commission we were forced to make a 6 months' study of one particular strictly peddle operation.

Mr. Fowler: Now I am going to move to strike the last [fol. 320] part of the answer as not responsive to the question, voluntary statement, not the best evidence.

Exam. Carpenter: It is stricken.

Mr. Fowler: Make your speeches in response to the questions, please.

By Mr. Nolan:

Q. Mr. Grice, for the record, what experience have you had in association work insofar as the motor carrier industry is concerned?

Mr. Fowler: That is objected to as immaterial.

Exam. Carpenter: Objection overruled.

A. I have been a member of the Western Trunk Line Motor Common Carrier Bureau from its inception on the so-called rate committee. One other member and myself are the two oldest members of the Midwest Motor Freight Tariff Bureau. I have been president and secretary of the Illinois-Minnesota Carriers Conference over a period of about 6 years. I am not an official there at the present time.

I was chairman of the Iowa Motor Carrier group for a period of approximately 10 years. At one time I was quite involved in Central States Motor Freight Tariff Bureau. I was also involved in the organization of the Minnesota Regulated Motor Transportation Association and have held other minor capacities such as treasurer or secretary of other so-called group meetings.

By Mr. Nolan:

Q. In your work in these various bureaus and organiza- [fol. 321] tions, state whether or not you do come in contact with the operating problems, the operating conditions of other motor carriers in the Iowa territory.

A. I do.

pendent food store throughout the country, the independent retail merchant by and large. We do have other institutional accounts, but some of those, of course, are located in the smaller towns, too. We need reasonable and consistent service to every points in which we are shipping groceries because, of course, of the local competition.

By Mr. Nolan:

Q. Mr. Ozinga, does a limitation in regard to the size of shipment—would it have any adverse effect upon your company's ability to use the facilities of the Rock Island Motor Transit Company in this case?

Mr. Fowler: Objected to on the ground it calls for an incompetent conclusion of the witness.

[fol. 299] A. Yes; it would.

Exam. Carpenter: Objection overruled.

A. While our average perhaps is 500 pounds, on many occasions throughout the year, perhaps in the fall on new pack items, as we call them, volume shipments over 5,000 pounds go out quite frequently to many of the stores in the Iowa section embraced by this application.

Q. Would those so-called volume shipments go to these small towns or small points?

A. Not necessarily. Some of them do. It just depends upon the sales ability of our salesmen in complete coverage within a store. It has happened consistently.

Q. Then, as I understand your testimony, Mr. Ozinga, so far as your company is concerned, you have established your service based and predicated upon the service the Rock Island Motor Transit Company was giving prior to any restriction or limitation on its operation, is that correct?

Mr. Fowler: Objected to on the ground it is leading.

Exam. Carpenter: Objection overruled.

The Witness: May I have that question again?

Exam. Carpenter: The question was a statement. Read it, please.

Mr. Nolan: Kind of a summary.

Mr. Fowler: That is objected to as immaterial to any issue in this case.

Exam. Carpenter: Objection overruled.

By Mr. Nolan:

Q. Now, Mr. Grice, a member of what different trucking associations is your company?

A. American Truck——

Mr. Fowler: Just a moment; please. Objected to as immaterial.

Exam. Carpenter: Objection overruled.

A. We belong to the American Trucking Association, Central States Motor Truck Association, Minnesota Regulated, Illinois Motor Carriers Conference. Probably several others. Iowa Motor Carriers Association.

By Mr. Nolan:

Q. You say the Iowa Motor Carriers?

A. Yes.

Q. Now, Mr. Grice, are you familiar with the operations of the Chicago-Dubuque Motor Transportation Company?

A. Very much so.

Q. Just state briefly for the record what operations are conducted by the Chicago-Dubuque Transportation Company.

A. They conduct an operation between Chicago, Ill., and [fol. 322] Dubuque, Iowa, and Dubuque, Iowa, and La-Crosse, Wis., and all intermediate points.

Q. Who is the managing officer of that company?

A. A. A. Burgmeier is president.

Q. How long have you been personally acquainted with the operations of the Chicago-Dubuque Motor Transportation Company?

A. Since about 1926.

Q. That company is a competitor of yours, is it not?

A. Certain of its operations are competitive between Dubuque and Chicago and the intermediate points.

Q. Now, are you acquainted with the operations of that company insofar as this present application would be af-

Exam. Carpenter: That is right.

(Question read.)

[fol. 300] A. That is correct.

Mr. Nolan: You may cross-examine.

Cross-Examination.

By Mr. Fowler:

Q. You don't mean to leave the impression that you have very many shipments exceeding 2,000 pounds to these small towns, do you?

A. I possibly could find one. I can't testify at the moment to any particular town; no.

Q. Generally speaking, your shipments are less than 2,000 pounds?

A. Generally speaking, they are.

Q. At the present time, to satisfy your transportation requirements to these Iowa points, you are using about four motor common carriers, including the Rock Island Motor Transit Company?

A. To these points named or point, in many cases that is true. Four. I think I noticed Iowa City. That is why I was thinking of Takin Brothers at the time and perhaps a correction should be made, so I think that will make five.

Q. You use Des Moines Transportation Company?

A. That is correct.

Q. To points, I presume, in Iowa west of Davenport?

A. That is correct.

Q. And you use——

A. By and large, Des Moines. There may be exceptions to that.

Q. —use Proucka?

[fol. 301] A. We use Proucka to Council Bluffs.

Q. You use the Rock Island Transfer and Storage Company, I suppose that is, to Davenport?

A. That would be the Tri-City area; yes.

Q. Takin to Cedar Rapids and Iowa City?

A. That's right.

Mr. Fowler: That is all I have.

Exam. Carpenter: Any further cross-examination? Any redirect? You are excused.

(Witness excused.)

W. R. Hoppe was sworn and testified as follows:

Direct Examination.

By Mr. Nolan:

Q. Will you state your name, place of residence, and occupation, Mr. Hoppe?

A. W. R. Hoppe. My residence, Chicago, Ill. I am a traffic manager for A. C. McClurg and Company.

Q. What is the nature of the business of the A. C. McClurg company?

A. We are wholesalers in school supplies, office supplies, housewares, books, and various sundries.

Q. And to whom does your company ship its products?

A. We supply principally small dealers. That is, the small independent dealer in small communities. We also serve schools and libraries and, furthermore, different types of institutions.

[fol. 302] Q. Now, are you familiar with the services performed by the Rock Island Motor Transit Company between Chicago and Omaha through the Tri Cities, Des Moines, over U. S. highway No. 6?

A. Yes, indeed.

Q. Has your company used the services of the Rock Island Motor Transit Company in that territory and over that route?

A. Yes, sir; we have used that service, as far as I recall, since about 1938 up to now.

Q. Prior to that did you use the White Line Transfer and Storage service or White Line Motor Truck Company service?

A. Prior to that time, if I may explain, there was really no need for White distribution since 1937 because we were principally governed by book distribution and school supplies alone and then in 1937 and 1938 we took over a varied

line of housewares and glassware and earthenware. In fact, we bought several concerns of that nature, so for that reason our distribution had to be more intense and we went into these smaller communities in Iowa and consequently our transportation problem became a more important one.

Q. Do you have salesmen in the territory involved in this case?

A. Yes, sir. We have a sales department right here in Des Moines with two representatives.

Q. State whether or not your company has regular customers in the towns along U. S. highway No. 6 and towns tributary to U. S. highway 6 between Davenport and Omaha, Nebr.

[fol. 303] A. Yes; we have. I could repeat the towns like the other gentlemen have done, and I may say also that we have about 500 accounts in Iowa. Of those 500 accounts about 10 percent are located along highway 6, distributed among these smaller towns, Brooklyn—as I say, I have the list here. I would be glad to repeat it if you wish me to.

Q. For the sake of brevity, would it be safe to say that your company has customers in practically every incorporated town and village between Davenport and Omaha, Nebr.?

A. That is right, because of the diversity of our mode of distribution.

Q. State whether or not your company has a regular flow of shipments into practically all these towns throughout the year.

A. Yes, sir; because the will more or less depend on the season. For instance, at this time of year we will supply principally hardware stores and variety stores with garden implements and housewares, and so forth. Then as the summer goes along, the school supply needs and book needs will develop and then further in the season, of course, our trade will principally concentrate on merchandise intended for the holidays.

Q. Now, what would you say would be the average size shipment going into these small towns, the intermediate points or small communities?

A. The average size shipment is very much based on the ability of the small dealer and consequently the shipments [fol. 304] are limited to between 350 and 500 pounds.

not responsive to the question and ask that the question be read to him.

[fol. 325] Exam. Carpenter: The answer is stricken. Read the question.

(Question read.)

A. Yes.

Exam. Carpenter: Proceed.

By Mr. Nolan:

Q. Now, you may answer my question.

The Witness: Will you read the question?

Exam. Carpenter: Read the question, please.

(Question read.)

A. Mr. Burgmeier advised me that the reason he was interested in this application was that it was the only ways and means that they had available of disposing of certain freight which they originated through an interchange with the Rock Island Motor Transit.

Mr. Fowler: I move to strike the answer of the witness on the ground it isn't responsive to the question, on the ground that he is restating hearsay evidence as to what Mr. Burgmeier told him.

Mr. Nolan: That may go out.

Exam. Carpenter: Objection sustained.

By Mr. Nolan:

Q. Mr. Grice, state whether or not you know of your own personal knowledge if the Chicago-Dubuque Transportation Company originates any freight on any points on its system to points destined in Iowa served by the Rock Island Motor Transit.

[fol. 326] A. Why, I would assume from the points that they serve they do. I do not have any definite knowledge of any particular movement or any particular origin or any particular destination that is involved.

Q. I will put it this way. Your company runs side by side with the Chicago-Dubuque Transportation Company between Dubuque and Chicago, doesn't it?

Q. Does your company ever have occasion to ship single shipments to any of the dealers in excess of 5,000 pounds?

A. Rarely. Perhaps only at the time that a new store is opened or at a time when a school supply order is shipped, which may be used for various consolidated schools within the district.

Q. What transportation facilities has your company been using now since 1938 when you expanded your business to serve these points in Iowa between Davenport and Council Bluffs and also points close along that line?

A. We have been principally guided by a service feature which has also been coupled with safety and experience, and for that reason we have used Rock Island Mofor Transit quite exclusively.

Q. What has been the nature of that service as to being satisfactory or otherwise?

A. It has been without fault for, I should say, the 15 years during which we have used the service, and I am saying that without any exaggeration.

Q. Do you know of any other carrier that offers the same type and character of service to these small towns for your company's distribution of its products into the Iowa territory?

A. If such carriers exist, they have made no attempt to solicit our business.

Q. What would be the effect upon your company's business and its operations in particular if there was a cessa- [fol. 305] tion of the operation of the Rock Island Motor Transit Company in the type of service it has been giving in the past into the Iowa territory covered by this application?

Mr. Fowler: That is objected to as immaterial, calling for an incompetent conclusion of the witness, for the same reason that I have given with respect to similar questions asked previous witnesses.

Exam. Carpenter: Objection overruled.

A. Of course, it is difficult to predict such a situation, but in rendering my opinion I would say that we are seriously concerned should such a situation take place because it stands to reason that it has taken considerable amount

of effort and money to develop that market. If we were to lose a carrier whom we have been depending on for years, it would no doubt interfere with a successful operation.

By Mr. Nolan:

Q. Do you know where you could replace the Rock Island Motor Transit Company by another carrier who would give you the same type of service you have been getting in the past?

Mr. Fowler: Objected to as repetition.
Exam. Carpenter: Objection sustained.
Mr. Nolan: This is just another final wind-up.
Exam. Carpenter: Let's wind up.
Mr. Nolan: You may cross-examine.

Cross-Examination.

By Mr. Fowler:

Q. As I understand it, you have been using Rock Island [fol. 306] Motor Transit for years?
A. That is right.
Q. You are satisfied with their service?
A. Yes, sir.
Q. You haven't had occasion to use any other common carrier by motor vehicle?
A. No, sir.

Mr. Fowler: That is all.
Exam. Carpenter: Any further cross-examination? Any redirect?

Redirect Examination.

By Mr. Nolan:

Q. Have you ever been solicited by any other carrier that offers you the same type of service?

Mr. Fowler: That is objected to as repetition.
Exam. Carpenter: Objection overruled.

A. That is correct.

Q. State whether or not the Chicago-Dubuque company handles general commodities over that route.

A. They do.

Q. And from your experience in the motor carrier business, do you have an opinion as to whether or not the Chicago-Dubuque Transportation Company would reasonably have shipments originating on its line to points destined in the Iowa territory served by the Rock Island Motor Transit?

Mr. Fowler: Objected to on the ground it is immaterial, calls for hearsay.

Exam. Carpenter: Objection sustained.

Mr. Nolan: That is all.

Mr. Fowler: That is all.

Exam. Carpenter: Any cross-examination? You are excused.

(Witness excused.)

OFFER IN EVIDENCE

Mr. Nolan: In connection with the testimony and identification of the witness, the interveners whom I represent [fol. 327] offers applicant's exhibit 4 into evidence.

Exam. Carpenter: The document is received as exhibit No. 4.

(Applicant's Exhibit No. 4, Witness Grice, was received in evidence.)

C. A. KINNER was sworn and testified as follows:

Direct Examination.

By Mr. Howland:

Q. Will you state your name, please, and in answering the questions speak so that everyone in the hearing room will have no difficulty in hearing you.

A. C. A. Kinner; my home is in Chicago, Ill.

Q. What is your business, Mr. Kinner?

A. I am terminal agent for the Rock Island Motor Transit Company in Chicago.

A. I mentioned previously that we have not been solicited.

Mr. Nolan: I just wanted to get the last question.

Exam. Carpenter: You just wanted to get in the last word.

Mr. Nolan: That is all.

(Witness excused.)

GEORGE V. BISHOP was sworn and testified as follows:

Direct Examination.

By Mr. Howland:

Q. Will you state your name, and speak so we can all get your answers to the questions, please.

[fol. 307] A. George V. Bishop.

Q. Where do you live, Mr. Bishop?

A. Chicago.

Q. What is your business?

A. I am assistant manager of the Clipper Transit Company at Chicago.

Q. What is the business of the Clipper Transit Company?

A. We haul common carrier out of Wisconsin from Chicago.

Q. The Clipper Transit Company is a motor carrier holding authority from what points in Wisconsin to Chicago?

A. From Green Bay, we take in all the principal cities down.

Q. Down to Chicago?

A. That is right, on the eastern part of the State.

Q. Eastern Wisconsin?

A. That is right.

Q. Does that include service to and from points on Lake Michigan such as Manitowoc?

A. That is our home office.

Q. Your home office is at Manitowoc, Wis.?

A. That's right.

Q. I take it Sheboygan and Two Rivers and Milwaukee are points served by your operation?

A. Milwaukee is out.

Q. And how long have you been employed by that company?

A. Since December 1, 1939.

Q. And in what capacities have you worked for the Rock Island Motor Transit Company?

A. Approximately 5 years as a rate clerk and 7 years as terminal agent.

Q. And does the Rock Island Motor Transit Company have a terminal in the City of Chicago, Ill.?

A. They do.

Q. Where is that terminal facility located and about what is the size of it and extent of the facilities that you have there?

[fol. 328] A. It is located at 1159 South Well Street. The length of the terminal is approximately 1,200 feet. We have 28 doors and the dock is 90 feet in width.

Q. Now, this terminal facility is in a building that is owned by the Rock Island Railway Company, is it?

A. That is right.

Q. And how long has the Rock Island Motor Transit Company had its Chicago terminal at this particular place?

A. Well, to my knowledge, since December 1, 1939, and I know that they had it prior to that time.

Q. Do you have an office there in connection with that terminal also?

A. Yes, sir.

Q. And about how many people are employed in the office?

A. At the present time, there are 12.

Q. Now, do you also have some regularly assigned employees on the dock at the terminal?

A. We have 18 dock men at the present time.

Q. Who is it performs pickup and delivery service on your motor carrier shipments in the City of Chicago?

A. We maintain all of our own city equipment.

Q. About how many pickup and delivery units does that include?

A. We have 12 straight trucks, 12 city tractors, and 18 trailers.

Q. And the size of the trailers is approximately what?

A. They vary from 20 feet to 32.

Q. Milwaukee is not, but the other points are?

A. That's right.

[fol. 308] Q. Do you have shipments originating on your lines that are destined to points in Iowa along U. S. highway 6?

A. I do.

Q. What has been your experience, Mr. Bishop, with respect to finding motor carriers in Chicago to handle the smaller shipments in interline service to those destinations?

A. Well, whenever there is a movement coming down and we are having trouble in order to get it off, it is handed to me to find a carrier.

Q. What is your experience as to having had some difficulty in finding carriers to handle those shipments?

A. Well, I look up the guide and if I see a line in there I get in touch with them. I have a few towns here that I brought along with me that we have given to Rock Island Motor.

Q. Would you mind giving us those destinations to which you have customarily made deliveries in interline service to the Rock Island Motor Transit Company?

Exam. Carpenter: Pardon me a minute. I don't think he answered your prior question, Mr. Howland.

Mr. Howland: He didn't fully answer it.

Exam. Carpenter: No; he didn't. Better follow that one up.

Mr. Howland: Thank you. I will withdraw this question.

By Mr. Howland:

Q. What experience have you had with respect to experiencing difficulty, if any, in finding carriers who are [fol. 309] willing to handle shipments of, say, 500 pounds or less into the Iowa territory to destinations, the smaller intermediate points, not points like Davenport or Des Moines, but say points like Marengo or Durant or Ladora or West Liberty or Victor or Grinnell or Kellogg, have you had experience of that kind?

A. I have been with Clipper for 16 years. I opened them up in Chicago, so I know.

[fol. 329] Q. And your straight trucks that you have referred to have about what capacity?

A. In length, they run from 12 to 18 feet.

Q. About what is the physical capacity of your trucks with respect to the load that can be transported by each of those truck units?

A. By weight?

Q. Yes.

A. The straight trucks are licensed to haul 4 tons. The tractors and trailers are licensed to handle 10 tons.

Q. About how many employees do you have; that is, truck drivers or helpers who are assigned to pickup and delivery service in the Chicago area?

A. We have 24 city drivers.

Q. And that is in addition to your dock employees?

A. That is right.

Q. Now, these units that you have been telling us about, are these units used, particularly the trailer units, in over-the-road service or inter-city service?

A. No; those are strictly in the city.

Q. Those are assigned——

A. And suburban territory.

Q. —to the City of Chicago and its immediate territory?

A. That is right.

Q. In what parts of the City of Chicago has the Rock [fol. 330] Island Motor Transit Company performed pickup and delivery service for motor carrier business?

A. The whole metropolitan area, which includes as far east as Gary, Ind., west to Proviso, north as far as the Wisconsin State line.

Q. That is beyond Waukegan, Ill.?

A. Waukegan is right.

Q. And those points are the limits, generally speaking, of the Chicago commercial zone as defined by the Interstate Commerce Commission?

A. That is right. Well, we have interstate permits to points outside of the zone also.

Q. In any event, you have, and are now serving, the Chicago commercial zone with pickup and delivery service?

A. That is right.

Q. Have you operated any peddler service outside of the

Q. All right, tell us what your experience has been.

A. Well, we have had quite a time getting our freight in Chicago not only in your territory in Iowa but all over, and it keeps me busy trying to get it routed.

Q. Keeps you busy trying to get it routed to destination?

A. That is right.

Q. Just tell us what the experience has been with carriers along U. S. highway 6 other than the Rock Island Motor Transit.

A. I am not familiar with highway 6. I don't know just where it is, where it runs.

Q. Well, what are the destinations with which you are familiar? Have you had any difficulty in getting rid of your shipments destined to Iowa points within the period of the last year or two to get service into destinations in Iowa?

A. No; I haven't had any trouble because whenever I have a point that Rock Island makes, I call them up and they have served us very well.

Q. What points are those?

A. These particular points are Oxford, Nichols, Wilton [fol. 310] Junction, Walcott, Wellman, and I believe they are off-line points.

Q. Wellman is an off-line point.

A. Yes.

Mr. Nolan: Served by U. S. No. 6.

By Mr. Howland:

Q. What organization or association of motor carriers is Clipper Transit Company a member of?

A. We are a member of the Central group——

Q. The Central——

A. —the Wisconsin group.

Q. The Wisconsin and Central States?

A. That is right.

Q. That is your tariff-publishing authority for that service?

A. That is right.

Q. Now, what common carrier organizations does your company belong to?

City of Chicago on U. S. 34 between Chicago and any other Illinois points? That is, do you operate a peddle run to serve Illinois points on U. S. 34?

Mr. Cohn: Objection. It isn't involved in this proceeding, what his peddle run is on U. S. 34.

Mr. Howland: I think the witness should answer as to what the service is.

Exam. Carpenter: Of course, it isn't involved here, Mr. Howland, in Illinois.

[fol. 331] Mr. Howland: It isn't directly involved; no.

Exam. Carpenter: Objection sustained.

By Mr. Howland:

Q. What service have you since about November 1, 1951, operated out of Chicago west into the Iowa territory?

A. We operate units to Des Moines proper.

Q. And about how many is that?

A. That runs about two a day.

Q. Is that on a daily basis?

A. That is a daily basis.

Q. How many days a week?

A. That is 6 days, daily except Sunday.

Q. Six days a week; that is two units to Des Moines proper?

A. Two units.

Q. What is loaded into those units?

A. That is for Des Moines proper, and for connecting line freight that is transferred to——

Q. Interlined at Des Moines?

A. That is right.

Q. All right. Now, what other service have you maintained since about November 1, 1951?

A. We operate a trailer from Chicago to Des Moines which moves overhead and peddles from Des Moines west to Council Bluffs. We load one trailer to Des Moines that peddles north from Des Moines to St. Paul, and that is the extent of our operation over route 6 with the exception of our Kansas City business which also moves through Des [fol. 332] Moines.

Q. How about the service rendered to Davenport and points intermediate between Davenport and Des Moines?

A. Common carrier organizations?

Q. Yes. Do you belong to the ATA organization?

A. No; I couldn't vouch for that. Everything like that is handled at Manitowoc and I couldn't say that we do.

Q. About how long a period has your experience covered with respect to having difficulty in getting a shipment into the hands of an interline carrier for destination in Iowa?

Mr. Fowler: Objected to——

A. I can't answer that because I don't remember of any instance that has come up.

[fol. 311] By Mr. Howland:

Q. About what size are these shipments that you have referred to that have been delivered to the Rock Island Motor Transit?

A. The largest shipment was 400 pounds. They range from 100 up to 400. There were five different shipments.

By Mr. Fowler:

Q. How many shipments?

A. Five. Those are the ones that I just——

Mr. Fowler: I understand.

Mr. Howland; You may cross-examine.

Mr. Fowler: I have no cross.

Exam. Carpenter: No cross. You are excused.

(Witness excused.)

V. G. Grice was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you please state your name, place of residence, and occupation?

A. My name is V. G. Grice, 966 Victoria Street, Dubuque,

A. We load one truck a day to Davenport proper, to the Tri Cities proper. We load one to Davenport that peddles west on route 6 from Davenport to Iowa City.

Q. What service do you have to Cedar Rapids, Iowa?

A. We operate a truck daily except Sunday from Chicago to Cedar Rapids via Iowa City.

Q. What freight is customarily loaded into that truck?

A. Cedar Rapids and Iowa City.

Q. Does that serve any points intermediate between Davenport and Iowa City?

A. Occasionally it handles West Liberty, but the peddle freight between Davenport and Iowa City is handled primarily on a truck that is loaded into Davenport.

Q. Now, what other service have you customarily operated from Chicago in a westerly direction since about November 1, 1951? Have you described it all to this territory on U. S. highway 6?

A. Over 34 and 92 and 6 in Illinois we operate——

Q. That is outside of the scope of this application.

A. I believe it does involve route 6 in a part of Illinois but not in Iowa.

Q. But not in Iowa?

A. That's right.

[fol. 333] Q. All right. About what times of day do these schedules customarily depart from the City of Chicago? About how are the schedules arranged for the operation of these units into the Iowa territory?

A. Between 7:30 and 9 p. m. is the leaving time.

Q. Do you have any service into Atlantic, Iowa, by separate unit or is that handled in some other manner?

A. That is handled in the truck that goes overhead to Des Moines and breaks bulk at the first point west of Des Moines and moves from there on to Council Bluffs.

Q. You haven't been handling any Chicago-to-Omaha traffic since August 31, 1951, as I understand it.

A. Not direct over our own line; no, sir.

Q. About what is the usual running time from your terminal in the City of Chicago to Davenport, Iowa?

A. Between 5 and 6 hours.

Q. Now, are you familiar with the interline arrangements between the Rock Island Motor Transit Company and other

Iowa, general manager of H & W Motor Express Company also of Dubuque, Iowa.

Q. How long have you been engaged in the motor carrier business, Mr. Grice?

A. 23 years, 21 with H & W Motor Express Company.

Q. And for the record, what are the operations of H & W, equipment and personnel?

[fol. 312] A. Well, the operating authority of H & W Motor Express Company, as contained in certificate MC-69224 and subs, briefly, is Chicago to Waterloo and Cedar Falls, Iowa, all intermediate points, the Tri Cities, consisting of Davenport, Moline, and Rock Island to the Twin Cities and all intermediate points; and another sub from Clinton to Dubuque and intermediate points; Dubuque to Des Moines and intermediate points, and various segments connecting these various operations.

Q. State whether or not your company is authorized and does engage in both inter- and intrastate operations over these routes?

A. Interstate operations for the most part on general commodities without exceptions and intrastate in the States of Iowa and Illinois. Minnesota is strictly interstate.

Q. You have all Iowa authority, too, do you not?

A. Yes.

Q. Now, Mr. Grice, tell us the personnel and equipment of the H & W Motor Express Company.

A. We have approximately 260 employees, about 260 units of equipment.

Q. State whether or not you are familiar with the service proposed by the Rock Island Motor Transit Company in this case.

A. I am.

Q. And are you appearing here in support of the application?

A. I am.

[fol. 313] Q. Why are you appearing here in support of the application? How does the proposed service affect your company's operation?

A. We have a large amount of interchange with the Rock Island Motor Transit, both on freight that we originate and freight that they originate. We have common points

carriers coming into Chicago from the north or from the east with respect to with whom you have interline arrangements at Chicago?

A. Yes; I am familiar with that.

Q. Have you handled those matters since you have been terminal agent at Chicago, Ill.?

A. For the past 3 years.

Q. About how many carriers are there, to your knowledge, whose lines terminate at Chicago and who have in-
[fol. 334] terline arrangements in interstate commerce with the Rock Island Motor Transit Company at that point?

A. Approximately 120.

Q. Can you tell us anything about the experiences that you have had of receiving from interline carriers at Chicago shipments destined into the Iowa territory either on U. S. highway 6 or on other routes where the shipments have averaged, say, less than 500 pounds in weight?

A. We handle a good many of those shipments.

Q. What is the fact as to whether those shipments are on occasion delivered to you even though they are routed via other lines out of Chicago originally on the billing?

A. Our files are full of bills, connecting line bills, that show a route other than Rock Island Motor which has been scratched off and our name put in.

Mr. Fowler: I want to object to that on the ground that it isn't responsive to the question, but more particularly for the reason that it isn't the best evidence, and I didn't have an opportunity to interpose an objection.

The Witness: I have got it.

Mr. Fowler: Your lawyer will tell you how to proceed.

Exam. Carpenter: Objection overruled.

By Mr. Howland:

Q. At the time of our last hearing, I think that I requested you to produce certain interline bills and there
[fol. 335] were produced at that time certain interline bills. Have you made an effort to produce interline bills bearing dates within the last 6 months involving somewhat similar——

A. No; not the last 6 months.

of interchange at Des Moines, Cedar Rapids, and the Tri Cities, and in some respects we are competitive to the Rock Island Motor Transit.

Q. Are there any points served by the Rock Island Motor Transit that your company has authority to serve at which you interline traffic for those destination points?

A. There is.

Q. What points?

A. We have authority to serve every point on U. S. highway 6 from the Tri Cities to Des Moines.

Q. Why do you interline? Why do you exchange that traffic with the Rock Island Motor Transit Company instead of delivering it yourself?

A. Insufficient volume to conduct the operation at a profit.

Q. Now, you said you have been in the motor carrier business 23 years. Has that been in the Iowa territory?

A. That is correct; it has all been in the Iowa territory.

Q. And of course, in connection with your operation in Illinois and Minnesota?

A. In Illinois and Minnesota.

Q. Mr. Grice, has there been any change from your [fol. 314] observation and experience in the so-called peddle runs of motor carrier operation, including your own company's operation?

Mr. Fowler: Just a moment. Objected to as immaterial to any issue.

By Mr. Nolan:

Q. In recent years.

Exam. Carpenter: Read the question.

(Question read.)

Exam. Carpenter: Objection overruled.

A. From the standpoint of, roughly, five carriers predominantly in the State of Iowa, as compared to 15 years ago, you would never recognize the same set-up of service.

Mr. Fowler: I move to strike the answer of the witness as not responsive to the question.

Q. These bills that you have are the same bills that you produced then in September 1951?

A. That is right, sir.

Q. What is the fact as to whether the experience that you have had with respect to that has continued beyond September 1951 up to the present time?

Mr. Fowler: Objected to as not the best evidence.

Exam. Carpenter: Objection overruled.

A. There has been no decided change. We are still getting bills daily that are routed via other carriers, particularly on merchandise that is of a bulky nature or freight that is hard to handle or to points that are other than key points.

Mr. Fowler: I move to strike the answer of the witness on the ground that it isn't responsive to the question, it was voluntary, and not the best evidence.

Exam. Carpenter: Read the question and the answer.

(Question and answer read.)

Exam. Carpenter: Objection overruled.

By Mr. Howland:

Q. I would like to ask for you to explain the term, "key points," that you used in connection with your last answer, Mr. Kinner.

[fol. 336] A. I mean the larger towns like Davenport, Iowa City, Newton, Des Moines, Atlantic, and Council Bluffs.

Q. Mr. Kinner, since about November 3, I believe it is, 1951, the Rock Island Motor Transit Company has been operating with a maximum restriction of 5,000 pounds on any shipment moving in interstate commerce, is that true?

A. That is right.

Q. And can you tell us what experiences you have had with respect to having requests for service from your customers or from interline accounts in the Chicago area for shipments in excess of the 5,000-pound——

Mr. Fowler: Now, wait a minute——

A. I have some records here on that.

By Mr. Nolan:

Q. Now, you might detail that more, Mr. Grice, so we will know more specifically what you mean.

Mr. Fowler: Better give me a ruling on my motion to strike.

Exam. Carpenter: Motion denied.

A. Well, at one time roughly 15 years ago, the set-up on the so-called peddle operations was about as good in the State of Iowa as you could find any place. As time has gone on, the peddle operations, for the most part and with exceptions, has deteriorated to the point where there is no service left on peddle operations.

Mr. Fowler: I move to strike the answer of the witness on the ground it is immaterial to any issue in the case. It is [fol. 315] merely a statement of his own opinion, has no bearing on any issue in this case, and I had no chance to interpose the objection at the time the question was asked.

Mr. Cohn: It isn't responsive, Mr. Examiner. If you will have the question read back, he asked him about his own company.

Exam. Carpenter: No, he didn't. It was a broader question than that. Read the question and answer, please.

(Question and answer read.)

Mr. Nolan: Maybe we can expedite this.

By Mr. Nolan:

Q. Mr. Grice, you say that your company has interlined traffic with the Rock Island Motor Transit to points where your company has authority to serve.

A. That is correct.

Q. And that is particularly between Davenport and Des Moines?

A. That is right.

Q. Now, from your observation has a similar situation prevailed between other carriers in the State of Iowa in the territory covered by this application, if you know?

Mr. Fowler: That is objected to on the ground it is im-

Mr. Fowler: Go ahead.

Exam. Carpenter: All right, answer the question.

A. We get a good many calls from shippers and we are tendered many shipments for points on route 6 that we turn down due to the fact that the weight is over 5,000 pounds.

By Mr. Howland:

Q. Do you have some references with you to such shipments?

A. I have some data that our dispatcher compiled showing the date, shipper or connecting line, whichever the case may be, the destination, and the weight.

Q. Between what dates does that——

A. I have the months of January, February—There is [fol. 337] December, January, February.

Q. December 1951 and January and February 1952?

A. Yes, sir.

Q. And did you ask your dispatcher to make up such a record, or do you keep it in the ordinary course of business, or how come these three sheets to be made up?

A. We kept that in the interest of solicitation. We hope that if we get full authority we can contact these shippers and connecting lines and advise them of the fact that the restriction has been lifted and that we are able to handle those shipments that we have been turning down.

By Exam. Carpenter:

Q. Were they made at your direction?

A. Yes, sir.

(The documents referred to were marked as applicant's exhibits Nos. 5 thru 7, Witness Kinner, for identification.)

By Mr. Howland:

Q. Referring to a paper which has been marked by the reporter as applicant's exhibit 5, Kinner, I notice that there appears on this list some eight different items and they all seem to bear dates 12-3, 12-5, 12-6, or similar items. For what month do the items appearing on exhibit 5 cover?

material to any issue in the case, calling for an incompetent conclusion of the witness.

Exam. Carpenter: Objection sustained. I will sustain the other objection ahead of that.

By Mr. Nolan:

Q. Mr. Grice, have you had any experience so far as your [fol. 316] company is concerned with carriers who have authority to operate over particular routes in the State of Iowa and routes which may be entailed in this present application where they have refused to take so-called smaller shipments or drop shipments to these peddle-run points?

Mr. Fowler: Just a minute. That is objected to as immaterial, objected to for the reason it is calling for hearsay evidence; it is objected to for the reason it is calling for an incompetent conclusion of the witness, and there is no foundation in the record to justify the question or the answer.

Exam. Carpenter: It is restricted to his own operation.

Mr. Nolan: That is right. He has had experience along that line.

Exam. Carpenter: Objection overruled.

The Witness: Will you read that question back?

(Question read.)

Mr. Fowler: I will withdraw my objection and object to it on the ground it is immaterial.

Exam. Carpenter: Objection overruled.

A. Yes.

By Mr. Nolan:

Q. Now, Mr. Grice, do you know of any carrier who has authority to handle interstate shipments serving the Iowa territory and particularly the territory involved in this application who perform the over-all service to intermediate points, peddle points and so-called key points, that the Rock [fol. 317] Island Motor Transit has been serving?

Mr. Fowler: That is objected to as immaterial.

Exam. Carpenter: Objection overruled.

A. December 1951.

Q. Now, what about exhibits 6 and 7?

A. Exhibits 6 and 7 cover the period from January 14, 1952, to March 4, 1952.

[fol. 338] Q. And I notice on these exhibits that in some instances under the designation of shipper there seems to be what I would take to be other trucking lines. For instance, Federal Truck appears on exhibit 7.

Mr. Fowler: Now, Mr. Howland, I don't want you to read from the exhibit until we get it admitted.

Mr. Howland: I will withdraw that question in view of the objection.

By Mr. Howland:

Q. I will ask this, under the designation of shipper on these exhibits 5, 6, and 7, what appears on those exhibits?

A. First is the date, then the shipper or connecting line, as the case may be, then the destination and then the weight.

Q. In other words, if the entry under the column "Shipper" appears to be another truck line, that indicates that it was a shipment tendered by an interline account?

A. That is right.

Q. And if it is the name of a company, not a truck line, for instance, Ryerson Steel Company or something that way, that indicates the name of the shipper who tendered the shipment?

A. That is right.

Q. Are these exhibits 5, 6, and 7 actual shipments so tendered to the Rock Island Motor Transit Company in Chicago during the months of December, January, and February, and up to March 4, 1952?

[fol. 339] A. That is right.

Mr. Cohn: What is the period covered on exhibit 7? I am not quite clear.

Mr. Howland: February 1 to March 4.

Mr. Fowler: February 14 to March 4.

Mr. Howland: 1952.

Mr. Fowler: I would like to interrogate the witness in connection with these exhibits if they are going to be offered.

A. There are certain points where other lines will accept the freight, dependent upon the type of freight and the size of the shipment. There are other points where we would have no alternative but to use the Rock Island Motor Transit Company. I have in mind particularly Newton. There are some carriers that will accept a Newton shipment from us at the Tri Cities. As far as a shipment destined to a point like West Liberty or Durant or Grinnell, unless the shipment was a full truckload you couldn't get anybody to take it and then they would be very reluctant to take the full load to Grinnell or Iowa City due to the shortness of the haul.

Mr. Fowler: Just a moment. I move to strike that part of the answer in which he is attempting to say what the other carriers would do as an incompetent conclusion of the witness and hearsay.

Mr. Nolan: I might qualify that question and answer a little bit.

Mr. Fowler: I am not worried about your question. I am now worried about his answer. I move to strike that part of the answer where he is undertakin- to testify as to what some other carrier will do.

Mr. Nolan: I ask the examiner to reserve ruling until this [fol. 318] next question is asked and answered.

Mr. Fowler: Just for the record, to keep the record straight, I think you should rule on that motion. I am just trying to keep this orderly. This thing is going to be looked at.

Exam. Carpenter: Go ahead; ask your next question.

By Mr. Nolan:

Q. Mr. Grice, your company has had experience in the particular instances which you have referred to about other companies taking traffic where it was desirable and refusing to take traffic to the so-called smaller points and particularly the smaller shipments that you referred to in your previous answer?

Mr. Rosenbaum: Mr. Examiner, you realize that this carrier has authority to serve the point.

Mr. Howland: I will make the offer of exhibits 5, 6, and 7 at this time.

Exam. Carpenter: I will withhold ruling on them.

Mr. Fowler: Are you going to withhold ruling on them or do you want me to go ahead?

Exam. Carpenter: You want to interrogate him before I accept them?

Mr. Fowler: Yes.

Exam. Carpenter: Go ahead.

By Mr. Fowler:

Q. With reference to the exhibits 5, 6, and 7, I think you testified they were prepared by the dispatcher.

A. That is right.

Q. They are not in your handwriting?

A. No, sir.

Q. You don't have any personal knowledge of these transactions?

A. No, sir.

Q. These were made up apparently from what the dis- [fol. 340] patcher told you, he would call up this connection and then he would make a note of it?

A. He filled out that sheet as the calls came in.

Q. Are there any other notations other than these or are these merely copies of some telephone calls that he took down?

A. No; that is the original copy as called in.

Q. In other words, he kept this sheet on his dispatcher's desk?

A. That is right.

By Mr. Howland:

Q. As I understand it, you directed that that record be kept?

A. That is right.

Mr. Fowler: Are they offered?

Mr. Howland: They are offered in evidence.

Mr. Fowler: Exhibits 5, 6, and 7 are objected to for the

Exam. Carpenter: I sure do. I am also presuming he has had experience of offering them to other carriers, too. Whether that is correct or not I don't know. I hope it will be brought out. I will overrule both objections.

A. We have that problem almost every day, continuously.

By Mr. Nolan:

Q. Now, Mr. Grice, I will ask you whether or not in your opinion, from your many years of experience in motor-carrier business if——

Mr. Nolan: I wonder if we could have some semblance of quietness in the room.

By Mr. Nolan:

Q. I started to say, from your many years of experience in the motor carrier business as an operator, based solely [fol. 319] upon interstate traffic without any local intrastate traffic, will support and sustain a local peddler delivery service to small points.

Mr. Fowler: That is objected to on the ground it is immaterial, for the reason that it calls for an incompetent conclusion of the witness, for the reason that it calls for pure speculation and conjecture.

Mr. Nolan: In response to the objections, we are asking this witness to express an opinion and a conclusion based upon his experience in the very situation we have confronting us here.

Mr. Fowler: Same objection.

Exam. Carpenter: Objection overruled.

A. From my experience with our own company and being a member of committees for a good many years where I hear all the troubles of all the carriers, I would say, roughly, that we have about six or seven distinct so-called peddle operations over which we have both the interstate and the intrastate authority for points involved, where there is no manufacturing involved in those points, there is no carrier could operate successfully on interstate business alone.

I can further substantiate that by the fact that under a

reason that they are hearsay, not the best evidence, the witness who is attempting to sponsor them admits he has no personal knowledge of the transactions recorded thereon, we have no opportunity of cross-examination of the editor of the documents for the purpose of ascertaining the underlying circumstances pursuant to which these notations were made. They are incompetent.

Exam. Carpenter: The objections are overruled. The documents will be received in evidence as exhibits Nos. 5, 6, and 7.

(Applicant's Exhibits Nos. 5 thru 7, witness Kinner, were received in evidence.)

[fol. 341] Mr. Fowler: Now, may I request, Mr. Examiner, that counsel for the applicant furnish us within a reasonable time with copies of those exhibits?

Exam. Carpenter: Mr. Howland.

Mr. Howland: I will undertake it.

Exam. Carpenter: How soon can you furnish them with copies?

Mr. Howland: I will try to do it by tomorrow noon.

Mr. Fowler: That is all right.

Exam. Carpenter: All right, you will so furnish them. Anybody else want copies?

Mr. Cohn: Yes, sir.

Exam. Carpenter: Everybody.

Mr. Howland: There will be 5 or 6 copies.

Exam. Carpenter: I suppose you had better make six to be sure.

Mr. Howland: All right, we will make 6 copies. We will have that completed.

By Mr. Howland:

Q. Mr. Kinner, have you had personal knowledge of some instances in which, whether they are recorded here or not, in which requests to perform transportation service on shipments in excess of 5,000 pounds in weight have been made to you for handling business from Chicago into this Iowa territory?

A. Yes, sir; I have.

Q. And what has been the fact with respect to the general

[fol. 342] volume of the business of the Rock Island Motor Transit Company in the last 3 months of 1951 and the first 2 months and up to the present time of 1952, as to the volume of business that you have handled compared with that previously handled before these restrictions were imposed?.

Mr. Fowler: I am going to object to that on the ground it isn't the best evidence.

Mr. Howland: We will have some further information on that in the way of exhibits.

Exam. Carpenter: Objection overruled.

A. There has been a decrease of between 42 and 45 percent; that is, in weight.

By Mr. Howland:

Q. What has been the decrease in revenues——

Mr. Fowler: Same objection——

By Mr. Howland:

Q. —if any?

Mr. Fowler: —as not the best evidence and hearsay.

By Mr. Howland:

Q. In your judgment, as an estimate?

Mr. Fowler: Same objection.

Exam. Carpenter: I understand you are going to have another witness go into it more in detail.

Mr. Howland: We will have some billing figures on the revenue that will show the comparative figures for the last 3 months of 1951 and the last 3 months of 1950, but that does not extend clear up to the present time.

Exam. Carpenter: What are you trying to accomplish [fol. 343] by this witness, just the percentage, is that all?

Mr. Howland: Approximate percentage and that it has continued to date.

Mr. Fowler: My objection still goes on the ground it is not the best evidence, calls for hearsay.

Exam. Carpenter: Objection overruled.

A. I am really not qualified to determine the percentage in revenue. I am in tonnage because we keep a daily tonnage report which is accumulated over a period of a month and the monthly total is shown in one figure.

By Mr. Howland:

Q. All right, I will ask you this, Mr. Kinner: What is the fact as to whether the decline in tonnage that you have referred to has continued up to the present time——

Mr. Fowler: That is objected to——

By Mr. Howland:

Q. —as compared with the preceding year?

Mr. Fowler: Objected to as not the best evidence, for the reasons just stated. There was a written record of it. Calling for hearsay.

Exam. Carpenter: Can you produce the written record of it?

Mr. Howland: I expect we can if the examiner rules that we have to.

Exam. Carpenter: I expect it would be better.

Mr. Howland: All right, we will make a note of that and try to produce that.

By Mr. Howland:

Q. Could you arrange——

[fol. 344] A. The tonnage records?

Q. The tonnage record of interline or originating at Chicago, to have that furnished to us during the course of this hearing?

A. Yes, sir.

Exam. Carpenter: Of course, you will have a witness who can stand cross-examination on it, will you?

Mr. Howland: We will arrange for the production of a witness who keeps that record.

By Mr. Howland:

Q. Can you arrange for the attendance of the person who keeps that tonnage record?

fected by their operation or this present application would affect the operation of the Chicago-Dubuque Motor Transportation Company?

A. To some degree; yes.

Q. In what particular?

A. Of course, shipments that they would originate in the Wisconsin area that would be destined to points on the operation of the Rock Island Motor Transit.

Q. Have you been authorized by Mr. A. A. Burgmeier, president of the Chicago-Dubuque Motor Transportation Company, to speak on behalf of that company in this proceeding?

A. He has so authorized me because he couldn't be available today or tomorrow.

(A document was marked as "Applicant's Exhibit No. 4, Witness Grice," for identification.)

By Mr. Nolan:

[fol. 323] Q. Calling your attention to what has been marked here for identification "Applicant's Exhibit 4," and I will ask you to state if that——

Mr. Fowler: Go ahead and finish.

By Mr. Nolan:

Q. —if you recognize what that is, the signature on it.

A. Yes. That is a letter addressed to whom it may concern by Mr. A. A. Burgmeier——

Mr. Fowler: Just a moment. Don't read it yet. Just tell him what it is.

A. —authorizing me to speak in behalf of the hearing that is being held here today.

By Mr. Nolan:

Q. Do you identify the signature on that as Mr. A. A. Burgmeier's signature?

A. Yes, sir.

Q. You have seen it a good many times?

A. I have seen it a good many times.
Q. Now——

Mr. Fowler: Just a minute, Mr. Nolan. Let me read this, will you?

By Mr. Nolan:

Q. Mr. Grice, are you able to state from your personal knowledge of the operations of the Chicago-Dubuque Motor Transportation Company in what particular way the operations of the Rock Island Motor Transit Company are related?

Mr. Fowler: Mr. Examiner, may I ask Mr. Grice a question?
[fol. 324] Exam. Carpenter: Yes, sir.

By Mr. Fowler:

Q. Mr. Grice, Chicago-Dubuque Motor Transportation Company apparently has their home office at Dubuque.
A. That is correct.
Q. And they operate between Chicago, Dubuque, Freeport, LaCrosse, and Rockford?
A. That is correct, and the intermediate points.
Q. Are you identified officially in any way with the company?
A. No, sir.
Q. Are you an employee of the company?
A. No, sir.
Q. An officer?
A. No, sir.
Q. A shareholder?
A. No, sir.
Q. Do they have their terminal at your place of business with you?
A. No.
Q. You are not personally familiar with their operations, are you?
A. After living in Dubuque all my life and knowing the operation.

Mr. Fowler: I move to strike the answer of the witness as

A. Well, that is under my supervision. I check it from time to time.

Mr. Howland: Well, we will determine that.

Mr. Fowler: Bring them out here. We won't have any trouble about that.

By Mr. Howland:

Q. Mr. Kinner, you have been a terminal agent for the Rock Island Motor Transit Company for a considerable period. During that time, have you solicited business for the Rock Island Railroad, freight business?

A. No, sir.

Q. And have you during the time that you have been terminal agent known of any instances where Rock Island Railroad traffic representatives have solicited business for the Motor Transit Company on motor carrier billing?

A. No, sir.

[fol. 345] Q. Do you have an abstract of the freight bills showing the shipments tendered to you for points in Iowa on the lines of the Rock Island Motor Transit Company where the shipments originally carried a carrier other than the Rock Island Motor Transit Company?

A. I don't have an abstract of that at this time. I believe there is one printed up in our local Des Moines office, but I don't have a copy of that here.

Q. Can you make an effort to get that in the course——

A. Yes; that can be done. If we don't have a copy, one can be made. It is just a copy of this.

Q. Will you make up an abstract of those so that we can substitute that for the bills themselves.

Who is your immediate superior in the organization of the Rock Island Motor Transit Company?

A. Mr. W. F. Peterson is general manager, Mr. D. E. Jenkins superintendent of operation. Walter Hitchen is the general traffic manager, Mr. O. Paul Fischer is in charge of sales.

Q. Have you received any directions or instructions from any officers of the railroad with respect to the handling of any motor carrier business?

A. No, sir.

Q. The men you refer to are the heads of the departments of the Rock Island Motor Transit Company?

A. That is right.

[fol. 346] Q. And of course Mr. Jenkins is in charge of the operating department with respect to the dispatching of trucks and personnel and matters of that sort, that is under his jurisdiction?

A. That's right.

Q. Traffic matters as far as rates and matters of that sort are in charge of Mr. Hitchen, and matters of solicitation and sales under Mr. Fischer?

A. That's right.

Mr. Howland: I think you may cross-examine.

Exam. Carpenter: Mr. Fowler.

Mr. Fowler: Is this witness going to be here in the morning?

Mr. Howland: Yes; I think so, although he wants to get away.

Mr. Fowler: The only reason I suggest that, I can kill some time here, but there are one or two questions I want to ask him, but——

Exam. Carpenter: Off the record.

(Discussion off the record.)

Mr. Cohn: I have a few questions.

Cross-examination.

By Mr. Cohn:

Q. Mr. Kinner, as I understand it, your terminal facilities in Chicago are located on Well Street and extend from approximately Taylor Street on the north to Roosevelt Road on the south, is that correct?

A. That is right, sir.

Q. And those facilities are adjacent to the Rock Island [fol. 347] Railroad's facilities in Chicago, are they not?

A. I just don't know what you mean by "facilities."

Q. Where is the right-of-way of the Rock Island Railroad located in connection with the location of your terminal?

A. Their tracks, you mean?

Q. Yes.

A. Well, it is adjacent.

Q. Yes. Do you accept at your terminal in Chicago freight which is billed on rail billing of the Rock Island Railroad?

A. No, sir; we don't.

Q. You do not accept that at your terminal, is that correct?

A. No, sir.

Q. You have 16 dockmen, I believe——

A. Yes.

Q. —that you say are employed by your company in Chicago in connection with the operation of your Chicago terminal?

A. That is right.

Q. Are those dockmen connected with the railroad brotherhood?

A. No; they belong to the Chicago local 710.

Q. Of the IBT?

A. IBT; that is right.

Q. Do you rent your terminal from the Rock Island Railroad at Chicago?

A. I am not qualified to answer that. I understand that it is railroad property, but that is merely hearsay. I have [fol. 348] never seen a lease.

Mr. Howland: We will have some figures on that.

Mr. Cohn: Including the arrangement for the rentals of the property?

Mr. Howland: We will have the monthly rental.

Mr. Cohn: Then that is all I have of this witness.

Exam. Carpenter: Any further cross-examination?

Mr. Fowler: I may say, Mr. Howland, for his benefit you are going to have an operating witness?

Mr. Howland: Yes, sir; Peterson.

Mr. Fowler: Then I won't have any questions of him.

Mr. Howland: That is all that I have available right now.

Exam. Carpenter: Off the record.

(Discussion off the record.)

Mr. Cohn: I do have a question on exhibits 5, 6, and 7.

By Mr. Cohn:

Q. Do you know how that traffic moved that is represented on those exhibits?

A. No; I don't know how it moved.

Mr. Cohn: That is all.

Exam. Carpenter: Any redirect?

Mr. Howland: There is nothing further at this time, Mr. Examiner.

Exam. Carpenter: Well, we will excuse him. If you want to bring him back——

(Witness excused.)

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[fol. 349] TRANSCRIPT OF PROCEEDINGS OF MARCH 19, 1952

Exam. Carpenter: If you are ready, gentlemen, we will proceed.

Mr. Howland: I guess we are ready to proceed.

Exam. Carpenter: Call your first witness.

Mr. Howland: Mr. Frank J. Schunter will be the next witness.

FRANK J. SCHUNTER was sworn and testified as follows:

Direct Examination.

By Mr. Howland:

Q. Will you state your name, please, and in giving your evidence speak up so that all in the hearing room can hear you clearly.

A. My name is Frank J. Schunter.

Q. You live where, Mr. Schunter?

A. At 1107 East 29th Street, Davenport.

Q. What is your business?

A. I am salesman for May Company, wholesale plumbing and heating.

Q. Where is the May Company located?

A. At 1611 Third Avenue, Moline.

Q. In what business is the May Company engaged?

A. Wholesale plumbing and heating.

Q. And generally, in what territory does the May Company have customers who purchase its products and require transportation service?

[fol. 350] A. We operate west as far as Iowa City. We go into Washington, some of those smaller towns down in there, Kalona occasionally. We go east as far as Sterling, Rock Falls—I don't know just how far; we are a branch office. I don't know how far south the Galesburg office goes.

Q. Generally, your line of business in which the May Company is engaged is the wholesale plumbing and heating supplies?

A. That is right.

Q. Just what generally is included within the scope of that business; that is, is it purely plumbing? Do you have heating?

A. No; we have a complete line of plumbing and heating. That includes boilers, pipe, fittings, fixtures, and so on and so forth.

Q. Do you sell furnaces?

A. Furnaces; yes.

Q. All plumbing and heating supplies?

A. That is right.

Q. That would be a proper designation of your business. Do you sell to dealers in the territory or direct to the customer?

A. No; we deal only with the dealers.

Q. About how many accounts do you have in the territory between Davenport and Iowa City, Iowa, along or adjacent to U. S. highway No. 6?

A. About 15, I would say.

Q. And you are, of course, interested in the transporta-

[fol. 351] tion service available to these communities?

A. Very much.

Q. That is an important part of your business. Do you sell on the basis of your goods delivered or are your sales made f. o. b. Moline?

A. Our business is all done open account.

Q. Open account, but I mean do you pay freight to destination?

A. We pay freight into Iowa City, which is a jobbing point. That is customary, paying freight into a jobbing point. The other points we do not.

Q. In the other towns the dealer who orders the merchandise——

A. That is right.

Q. —pays the freight. Do you have a jobbing branch at Iowa City?

A. No.

Q. About how often do you make this territory?

A. I make it every 2 weeks.

Q. Do you have accounts in each of the towns of Walcott, Durant, Wilton, Atalissa, West Liberty, and Iowa City?

A. In all but Atalissa.

Q. In all but Atalissa. I don't know whether I omitted West Liberty in there.

A. No; you included West Liberty.

Q. Do you also have dealers located at other points off of highway 6 in that same general territory? I refer par- [fol. 352] ticularly to the points such as Kalona and Wellman and towns lying north and south of Iowa City?

A. We have a very good account at Riverside. Kalona and Wellman, we ship occasionally. That territory still has to be developed.

Q. Riverside, of course, is a town of about 1,000 population or perhaps a little less located almost directly south of Iowa City, as I recall.

A. Right.

Q. And generally speaking, about what is the weight of the shipments which your company has occasion to make into this general territory, Mr. Schunter?

A. That would vary a great deal.

Q. Give us the minimum and the maximum limits.

A. From minimum to probably 3 or 4 thousand, sometimes occasionally 5,000 pounds.

Q. Now, what truck service have you used in connection with the making of delivery of shipments into these communities?

A. We depend almost entirely on Rock Island.

Q. Rock Island Motor Transit Company?

A. That is right.

Q. The applicant here. What character of service have you experienced from the Rock Island Motor Transit Company in the delivery of your shipments in the past?

A. On the whole, it has been excellent.

[fol. 353] Q. Is there any other common carrier truck line which performs a comparable service, to your knowledge, into these smaller intermediate points other than the Rock Island Motor Transit Company?

A. Not to my knowledge.

Q. Have you had any experience with shipments via other truck lines or other agencies in that territory?

A. Only on through hauls, terminal to terminal.

Q. At Iowa City what has been your experience? You use Rock Island Motor Transit to that point?

A. Yes; we do. Overnight service.

Q. Overnight service from your distributing point at Moline. About how often do you have occasion to make shipments from Moline, Ill., into this territory, would you say?

A. It would come very near to being every day.

Q. To some one or more of these points?

A. That's right.

Q. Is that a continuous flow of traffic that you have——

A. That is right.

Q. —of the character that you have described. If the Rock Island Motor Transit Company were to discontinue this service or to substantially curtail it, would that have any effect, in your judgment, on the ability of your company to handle its business?

Mr. Fowler: That is objected to on the ground it is immaterial to any issue in the case, and for the further rea-[fol. 354] son that there is nothing in this record to indicate or justify any conclusion the service of the Rock Island Motor Transit Company will be curtailed.

Exam. Carpenter: Objection overruled.

By Mr. Howland:

Q. You may answer my question—if you have it in mind; if not, we will have it read.

A. Yes; it would make a considerable difference.

Q. Will you explain in what way?

Mr. Fowler: Same objection.

Exam. Carpenter: Objection overruled.

A. In this respect, that actually a jobber has little to sell other than service. I mean that in this respect. You can buy not the same brand, but you can buy the same material from our competitor that you can buy from us. It will do the same job. Probably won't cost any more money. The May Company has always prided itself in being able to get the material into the dealer's hands before our competitor.

By Mr. Howland:

Q. Have you built up business largely on the service basis to your dealers?

A. Very much so.

Q. Where are your principal competitors for business in this territory located?

A. In the Tri-Cities, Cedar Rapids, Des Moines, Ottumwa, Burlington, although Burlington doesn't bother us too much.

Q. And in each of these places, Ottumwa, Des Moines, [fol. 355] Cedar Rapids and the Tri Cities, you do have wholesalers who are in competition with your business?

A. That is right.

Q. In addition to your plumbing and heating supplies, are there any hardware lines that you handle or sell in this territory, mill supplies or anything?

A. A certain amount of mill supply. We don't go in too heavily into the mill supply.

Q. You don't what?

A. We don't go too heavily into the mill supply angle.

Q. What is included in mill supplies, what general type of articles?

A. Well, the tools we handle are all light tools. We don't get into the heavy sort of thing at all.

Q. Would it be to supply elevators or garages?

A. No.

Q. What general type?

A. Just the run-of-the-mill valves, traps, packinghouse equipment, that sort of thing.

Mr. Howland: You may cross-examine.

Exam. Carpenter: Mr. Fowler.

Cross-examination.

By Mr. Fowler:

Q. As I understand it, Mr. Schunter, you have dealers located in Walcott, Durant, Wilton, Iowa City, and West Liberty.

[fol. 356] A. That is right.

Q. And that you are interested in service on shipments to the dealers located at those points.

A. Correct.

Q. And that your place of business is at Moline, Ill.

A. That is right.

Q. And that you have been using the Rock Island Motor Transit truck service to these points?

A. Right.

Q. Now, ordinarily, what will a shipment consist of to a dealer at Wilton?

A. It might be heating equipment, furnace, boiler, pipe, pipe fittings, valves, plumbing fixtures.

Q. On an average, what will those shipments weigh, talking now about a normal shipment to a small dealer out in a small town?

A. They should average 500 pounds.

Q. When you spoke about a larger volume shipment in excess of, say, 3,000 pounds, under what circumstances could that come about?

A. It might be a large boiler.

Q. That is a very rare thing going out into these points, isn't it?

A. Rare perhaps; yes.

Q. Have you had one this year, since January 1, to any of these points?

[fol. 357] A. No; I haven't.

Q. The fact of the matter is that you are supplying these dealers with the ordinary stock of plumbing and heating supplies and they keep their stock up by ordering from you when you come aro-nd and the average shipment is not over 500 pounds, isn't that right? generally speaking.

A. Generally speaking, probably yes.

Q Do you know whether there is any other common carrier service available to you from Moline to these points?

A. No one that we depend on.

Q. Have you made any inquiry lately to determine what other service might be available to you?

A. Between Moline and Iowa City, I know of no one who is making peddler service thro-gh there.

Q. My question was, have you made any inquiry lately to determine whether or not there is any service?

A. We have had no occasion to.

Q. In other words, you have been satisfied with the service of the Rock Island?

A. That's right.

Q. You haven't made any inquiry to determine whether or not there might be other service available?

A. No; I haven't.

Mr. Fowler: I think that is all.

Exam. Carpenter: Any further cross-examination?

[fol. 358] Off the record.

(Discussion off the record.)

Exam. Carpenter: Any redirect?

Redirect examination.

By Mr. Howland:

Q. Have you, Mr. Schunter, in years past checked up or made inquiry to determine whether there has been any other carrier in the field providing this peddler service that you have referred to?

Mr. Fowler: Objected to as immaterial for the reason that it is too remote in time.

Exam. Carpenter: Please read the question.

(Question read.)

Mr. Howland: I will withdraw the question in that form.

By Mr. Howland:

Q. You referred to peddler service between Moline and Iowa City. Will you explain to the examiner what you mean by peddler service?

A. By that I mean someone who will handle the small drop shipments into the small towns.

Q. That is, making regular pickup and delivery service——

A. That's right.

Q. —to these communities?

A. Between terminals.

Q. Have you within the last 2 years had occasion to investigate as to whether there was any other service available?

Mr. Fowler: Objected to for the reason that it is im- [fol. 359] material, being too remote in time.

Exam. Carpenter: Objection overruled.

A. Yes.

By Mr. Howland:

Q. What was the result of that investigation?

Mr. Fowler: Same objection.

Exam. Carpenter: Overruled.

A. The account who switched truck lines is now back with Rock Island Motor.

By Mr. Howland:

Q. And was that at one of these intermediate points?

A. No; that was at Iowa City.

Q. At Iowa City. Anything further that you wish to add to your evidence here with respect to this continuation or the curtailment of this service?

Mr. Fowler: That is objected to for the reason that there is no question to the witness. I have no opportunity to interpose an objection.

Mr. Howland: I will withdraw that.

Exam. Carpenter: Objection sustained.

Mr. Howland: I will withdraw that and I will ask this:

By Mr. Howland:

Q. Is there any other way other than what you have testified to in which your company might be affected by

the elimination or curtailment of this service of the Rock Island Motor Transit Company in this territory?

Mr. Fowler: That is objected to on the ground it is [fol. 360] immaterial, and for the same reason that I interposed with respect to the previous question on the same thing.

Mr. Rosenbaum: It is repetitious.

Exam. Carpenter: I will sustain the objection on the ground that it is repetitious.

Mr. Fowler: Then add repetitious.

Mr. Howland: That is all. Thank you, Mr. Schunter.

(Witness excused.)

GROVER SCHNECKLOTH was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, please?
A. Grover Schneckloth.
Q. Mr. Schneckloth, you live where?
A. Davenport, Iowa.
Q. In what business are you engaged?
A. Primarily in the lumber business.
Q. In what phase of the lumber business?
A. Retail.
Q. In the retail lumber business. Is your business located in Davenport?
A. No.
Q. Or at other points?
A. It is located in Walcott, Durant, and Sunbury, Iowa.
Q. Sunbury is a town located approximately north of [fol. 361] the town of Durant and a little bit east, I believe, is it not?
A. It is directly north of Durant.
Q. Straight north. You say that you have retail lumber establishments in each of these communities?
A. That is correct.
Q. Where is your office located?
A. I use the Walcott lumberyard as my office.

Q. Maintain an office there?

A. That is right.

Q. But your residence is in Davenport?

A. That is right.

Q. What lines of merchandise do you sell in these retail outlets?

A. Farm supplies, hardware, builder's hardware.

Q. Roofing material?

A. That is right.

Q. Do you deal in paints?

A. Yes.

Q. And when you say farm supplies, what type of farm supplies do you have reference to?

A. We have a John Deere agency at Durant.

Q. At Durant.

A. And farm supplies such as hay carriers, hay tools, pitchforks, shovels—whatever you want.

Q. Both farm tools and smaller farm implements?

[fol. 362] A. That is right.

Q. Would that also include such items as wire or gates or fencing materials and matters of that sort?

A. Yes.

Q. Now, where are the principal suppliers located from whom you acquire the merchandise that you handle and sell?

A. Mostly east of Davenport or in Davenport or Rock Island or Moline.

Q. Your wholesalers are in the Tri-City area?

A. Some of them are. We do a good deal of business with Armstrong of Clinton. That is where we buy our small builder's hardware from.

Q. That is a wholesale hardware supply concern?

A. It is a wholesale hardware.

Q. In connection with the sale of lumber, do you also handle millwork?

A. That is correct.

Q. And sash and doors and matters of that sort?

A. Yes.

Q. Are the goods in which you deal delivered to your retail stores by the wholesalers or is it handled in some other way?

A. I don't understand that question.

Q. Well, you buy your stuff on an f. o. b. at point of origin or is it delivered to you freight paid?

A. It is f. o. b. the origin usually.

[fol. 363] Q. It is f. o. b. the origin?

A. Yes; we pay the freight bill.

Q. And your company pays the freight?

A. That's right.

Q. What has been your practice with respect to the type of carriers that you have been using in performing delivery service to your retail stores?

A. It has been the Rock Island Motor Transit.

Q. About how long have you been doing business with the Rock Island Motor Transit Company?

A. Ever since the service was offered to us.

Q. Going back to a matter of sometime prior to World War II or maybe as far back as 20 years ago?

A. No; about 20 years ago. My father started the business at that time.

Q. Now, to your knowledge is there any other regular service by motor carrier on a daily basis into Walcott and Durant and Sunbury other than the service of the Rock Island Motor Transit Company?

A. Not to my knowledge.

Q. Have you had any experience in having shipments from the Tri-City area delivered by any other truck line?

A. No.

Q. About how frequently would you say that you have occasion to receive shipments to these branch stores or branch lumberyards that you operate?

[fol. 364] Mr. Fowler: That is objected to unless it is restricted to interstate commerce.

Exam. Carpenter: Do you wish to so restrict it?

Mr. Howland: I will qualify that.

By Mr. Howland:

Q. I will add to that, from the Tri Cities located on the Illinois side of the Mississippi River.

Exam. Carpenter: Now, do you understand the question?

Mr. Howland: Withdraw it and I will start over.

By Mr. Fowler:

Q. Mr. Riley, what you are here for today is to testify that insofar as your company is concerned, you want to continue this interline arrangement you have with Rock Island Motor Transit——

A. That is right.

Q. —is that correct?

A. That is correct.

Q. And you want to continue the mutual interchange agreement you have with them with respect to shipments originating on their line destined to points on your line?

A. That is right.

Q. And you are perfectly willing to let the carriers who [fol. 387] are immediately affected by this application run their own show up here?

A. Oh, yes; that is true.

Q. You are not telling them what to do about this application?

A. No, sir. I am telling you what my position is.

Mr. Fowler: That is all.

Redirect examination.

By Mr. Nolan:

Q. Now, Mr. Riley, I assume you have made complaints against other carriers and other carriers have made complaints against the Dohrn operation, isn't that true?

Mr. Fowler: Objected to as leading and suggestive.

Mr. Nolan: I am asking what the fact is.

Mr. Fowler: It is a fine way to ask it.

By Mr. Nolan:

Q. What is the fact?

Mr. Fowler: Now, just a moment, please, Mr. Examiner. I object to that on the ground it is leading and suggestive.

Exam. Carpenter: Reframe your question.

By Mr. Howland:

Q. This hearing is devoted solely to the interstate business as contrasted with the intrastate transportation within the State of Iowa, and so the question is now, about how frequently do you have occasion to use this service from points outside of the State of Iowa to Walcott or Durant or Sunbury?

A. I would say daily, whenever the service is available to us.

Q. Do you have a more or less continuous flow of shipments coming in from outside the State?

A. That is correct.

Q. Mr. Schneckloth, would the business of your company be affected in any way in the event that the service of the Rock Island Motor Transit Company from points outside the State of Iowa was eliminated or curtailed?

Mr. Fowler: That is objected to for the reason that it is immaterial, for the reason that it assumes a fact which is [fol. 365] not established by the record.

Exam. Carpenter: Objection overruled.

A. I would say that our business would be affected.

By Mr. Howland:

Q. And in what way?

Mr. Fowler: Same objection.

Exam. Carpenter: Same ruling.

The Witness: You said the same ruling?

Exam. Carpenter: Same ruling. Go ahead.

A. It would take longer for us to receive the merchandise that we have ordered. I assume that that would be the case.

By Mr. Howland:

Q. Have you had any experience with having shipments delivered to these points of destination by truck lines other than the Rock Island Motor Transit Company?

Mr. Fowler: Objected to as repetition. I think you asked him that.

By Mr. Nolan:

Q. What is the fact, Mr. Riley, as to whether or not your company has had occasion to make complaints against carriers other than the Rock Island Motor Transit in respect to the scope of their operation and as to whether or not carriers have made complaints against your company's operation?

Mr. Fowler: Same objection.

Exam. Carpenter: Objection overruled. Go ahead and answer.

A. This complaint that is being bandied about here is the [fol. 388] only one we have ever been involved in for or against, that reached a formal stage. If you would like the details, I would be glad to give them to you.

By Mr. Nolan:

Q. Mr. Riley, so far as the Rock Island Motor Transit being a subsidiary of the Rock Island Railroad Company, does that, in your opinion, have anything to do insofar as the public service is connected in this case?

A. No.

Mr. Fowler: Just a moment, please. That is objected to as immaterial; objected to on the ground it is calling for an incompetent conclusion and opinion of the witness. This witness has testified his company has no interest in any service out in here in Iowa except through interline with the Rock Island Motor Transit Company.

Exam. Carpenter: Just asking him for his opinion, Mr. Fowler. You may answer.

A. No; it makes no difference to me.

By Mr. Nolan:

Q. Now I will ask you, Mr. Riley, if some other carrier provided the same type of service as the Rock Island Motor Transit Company, would your company be just as willing to interline with them as the Rock Island Motor Transit Company?

A. Yes; that is true.

Mr. Howland: I don't think I have covered it. I may have.

Exam. Carpenter: Go ahead and cover it if you haven't covered it before. I don't think you have covered it before.

Mr. Fowler: I beg pardon.

By Mr. Howland:

Q. You may answer.

A. Not l. c. l. shipments.

Q. Now, at some of these points I take it you make carload shipments by rail?

A. That's right.

Q. Have you had any experience in handling less-than-[fol. 366] carload shipments by rail to any of these points?

A. Yes; we have.

Q. How does the service of the Motor Transit Company, the truck service, compare with that of the delivery by rail?

A. I am speaking of split cars of lumber, say a stopover at some other place; that is the only experience I have had.

Q. Well, you have not had occasion in recent months or years——

A. That is right.

Q. —I take it to have shipments, l. c. l. shipments, delivered by rail?

A. That is right.

Mr. Howland: I think you may cross-examine.

Mr. Fowler: No cross-examination.

Exam. Carpenter: Anybody else wish to cross-examine? You are excused.

Mr. Howland: I would like to ask Mr. Schneckloth one or two additional questions.

Exam. Carpenter: All right; go ahead.

By Mr. Howland:

Q. Mr. Schneckloth, in connection with the handling of roofing materials particularly, in what quantities do you customarily buy materials of that kind?

Q. Now, there was some reference made to an agreement that your company had with Rock Island Motor Transit for [fol. 389] the interline of freight at the Tri Cities. State whether or not that is only an arrangement that you have by reason of participating in the same tariffs.

A. That arrangement is no different than we have with all other carriers. When we have freight for you, we take it to your terminal and when you have freight for us, you bring it to our terminal. That is the extent of the interline arrangement.

Q. It is no more than participating in the same tariff?

A. That is right. It is just the usual set-up we have with all joint-line carriers where we have joint-line traffic.

Q. There isn't any special arrangement or anything like that?

A. No.

Mr. Nolan: That is all.

Exam. Carpenter: Is there any further cross-examination?

You are excused.

(Witness excused.)

LESTER LUND was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you state your name, place of residence, and occupation?

A. Lester Lund.

Q. Where do you live, Mr. Lund?

A. Walcott, Iowa.

Q. What is your business.

[fol. 390] A. Farm implements.

Q. What line of farm implements do you handle?

A. John Deere.

Q. You are a local dealer there for the John Deere company?

A. Yes.

A. Either carload or truckload.

Q. From what source, what source of supply, that is?

A. Either Kansas City or Chicago Heights.

Q. Chicago Heights or Kansas City. At least, it would [fol. 367] be outside the State of Iowa?

A. That's right.

Q. In the event that the Rock Island Motor Transit Company was in a position to handle truckload shipments of materials of that kind, would you use that service from either Kansas City, Chicago or other points?

A. We are getting truckload service that is being routed and originated at the source now which is very good. We possibly would specify Rock Island delivery if it would expedite the delivery of it.

Q. What type of truck service is being rendered to you at present; that is, is that a contract carrier or what arrangement is that?

A. Oh, it is usually some cattle truck coming back from Chicago that is leased to someone else, I imagine is the arrangement that is used.

Q. One of these livestock haulers coming back with a load of roofing material or wire or fenci-g or something of that sort?

A. That's right.

Mr. Howland: That is all. Thank you.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Fowler:

Q. The point is that on your roofing that you get from Chicago, it comes by a carrier other than the Rock Island Motor Transit, the carrier selected by the roofing company? [fol. 368] A. Right.

Q. The same thing is true of Kansas City?

A. Yes.

Q. Either get it in carload lots by rail or in truckload lots through some other carrier?

A. That's right.

Mr. Fowler: That is all.

Q. Have your own place of business?

A. That's right.

Q. That is not a company store?

A. No.

Q. How long have you been in the farm implement business at Walcott?

A. Six years in Walcott.

Q. Had you had experience at some other place before you went to Walcott in the farm implement business?

A. That is right.

Q. Where was that?

A. Clinton, Iowa.

Q. Now, you handle a general line of John Deere farm implements, is that correct?

A. That is right.

Q. Do you handle any other line of farm implements?

A. Yes; there are a few.

Q. For instance, what are they?

A. Oh, Morton elevators and post-hole diggers of different brands, wagon boxes.

[fol. 391] Q. I assume now—to shorten this up—you get your farm implements, your John Deere implements, from Moline, Illinois, is that correct?

A. That is right.

Q. Where do you get other farm supplies from?

A. Oh, some of them come from Wisconsin; some of them from Morton, Il., Peoria.

Q. Do they come in in so-called small shipments or less-than-carload quantities?

A. That's right.

Q. Less-than-truckload quantities. What transportation service do you have available at Walcott, Iowa, for bringing in your out-of-State shipments?

A. Rock Island Motor Transit Company.

Q. Do you have any other carrier that provides a local, regular service for less-than-truckload shipments into Walcott?

A. No.

Q. What would you say would be the average size of a shipment that you receive at Walcott?

By Mr. Rosenbaum:

Q. You don't control the routing of that shipment, do you?

A. No.

Redirect examination.

By Mr. Howland:

Q. Do you mean by that the shipper reserves the right to control the routing or that you just don't do it?

A. We usually feel that the shippers knows more about routing that we do.

Q. What service may be available?

A. That is right.

Q. And you haven't been specifying that?

A. That is right.

Mr. Howland: That is all.

Mr. Fowler: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

Exam. Carpenter: We will take a 5-minute recess.

[fol. 369] (Short recess.)

Exam. Carpenter: We will proceed, gentlemen.

Mr. Howland: Mr. Kerr.

E. C. KERR was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, please?

A. E. C. Kerr.

Q. You live where, Mr. Kerr?

A. West Liberty.

Q. In what business are you engaged?

A. In that town, lumber, hardware, and implements.

A. Oh, an average one would run in the neighborhood of 500 to 1,500 pounds.

Q. What regularity do you get shipments into Walcott into your place of business there from out-of-State points?

A. Oh, from out of State, I would say two to three times a week.

[fol. 392] Q. State whether or not you have occasion to get shipments in in excess of 5,000 pounds.

A. No; not too often.

Q. Well, would you infrequently get such shipments, and if so, what would they consist of and where would they come from?

Q. I don't think we have ever had any large shipment like that shipped by motor freight because we send our own truck for it then.

Q. Now, I think I asked you if there is any other carrier that provided a local service there outside of the Rock Island Moto. Transit.

A. No; there isn't.

Q. What would be the effect upon your business if the Rock Island Motor Transit Company ceased doing business or if its operations were curtailed so it couldn't perform this regular daily motor carrier service?

Mr. Fowler: That is objected to as immaterial. Objected to for the reason that it assumes a fact not established by this record

Exam. Carpenter: Objection overruled. Go ahead and answer.

A. In the first place, a customer comes in, if we call to a certain place for a piece of equipment and they can get it out the same afternoon, we can have it the next morning, and if we didn't have that service, why, it would probably be a week before we would get it.

[fol. 393] By Mr. Nolan:

Q. Now, Mr. Lund, Walcott is located a short distance off of highway No. 6, is it not?

Q. That is right.

Q. And how far is it off highway No. 6?

A. Oh, about a quarter of a mile.

Q. How long have you been engaged in that business?

A. 52 years this last fall.

Q. What particular sources do you get your merchandise that you sell in your store there at West Liberty, Mr. Kerr?

A. Well, with the lumber, most of it, of course, is carload. Our millwork and stuff like that is from the Tri Cities and that comes out, a lot of it, with Rock Island Motor Transit Company.

Q. Now, when you say the Tri Cities, what particular points do you refer to? Do you buy from the Illinois side?

A. Rock Island.

Q. Rock Island, Ill.?

A. Rock Island.

[fol. 370] Q. There is at least one large sash, door, and millwork concern located at Rock Island?

A. Yes, sir.

Q. And that is a manufacturer of that type of merchandise?

A. Of those products.

Q. Now, with respect to hardware and implements, what is your source of supply for those?

A. Chicago, Des Moines, Omaha, and we get some—well, we get some from Ottumwa, quite a little from Ottumwa. That is on the hardware.

Q. What type of implements do you sell?

A. John Deere.

Q. Does that include the full line of John Deere implements?

A. Yes, sir.

Q. From what point do you get the——

A. Most of that comes from Moline.

Q. From the main plant?

A. Yes, sir; from the main office.

Q. Now, on your less-than-carload shipments, what service have you been using to get your shipments into West Liberty?

A. Rock Island Motor.

Q. About what is the fact as to how often you have occasion to have shipments coming in?

A. In the last 15 months, we have had 379 bills of lading.

Mr. Nolan: You may cross-examine.
Exam. Carpenter: Mr. Fowler.

Cross-examination.

By Mr. Fowler:

Q. Do you use Rock Island rail service?
A. Yes; we do.
Q. And you also use the Rock Island truck service?
A. That is right.
Q. And how many shipments have you had received from out-of-the State points since January 1, 1952, approximately?
A. I would say we run approximately two or three a week.
Q. And those shipments are of an average volume of 200 pounds?
A. I would say around 2 to 5 hundred pounds.
Q. And consist largely of what?
A. Mostly either small hardware or farm repairs.
Q. And they originate at what point?
A. Many from Moline.
Q. On your implements, do you take your own truck to Moline and pick up your implements?
A. That is right.
Q. And if you have any substantial volume of freight, [fol. 394] you go and pick it up in your own truck?
A. That is right.

Mr. Fowler: That is all.
Exam. Carpenter: Any further cross-examination? Any redirect?

Redirect Examination.

By Mr. Nolan:

Q. Is it fair to say, Mr. Lund, in addition to handling farm implements, you also handle general farming supplies?
A. That is right.

Mr. Nolan: That is all.
Exam. Carpenter: Any re-cross? You are excused, Mr. Lund.

Q. 379 inbound shipments?

[fol. 371] A. Yes, sir; from different points.

Q. In the last 15 months?

A. Yes, sir.

Q. And have a very large proportion of those been from points outside the State of Iowa?

A. Well, yes; comes from central Nebraska, some of it. We handle land rollers we can't get from Deere.

Q. In any event, you are interested in the interstate transportation?

A. Yes, sir.

Q. That is available as well as transportation——

A. That is right.

Q. —from points within the State of Iowa to West Liberty. About what will be the size and weight of the shipments that you have occasion to make to your company?

A. You mean just in Iowa or all?

Q. No; interstate.

A. That will vary. It will vary from a few pounds up to oh, 4,000 or 4,500 pounds sometimes.

Q. And is there, to your knowledge, any other truck carrier other than the Rock Island Motor Transit Company that provides a regular daily service to West Liberty, Iowa?

A. No, sir.

Q. Have you made inquiry to determine whether there is anybody else that serves the town of West Liberty?

[fol. 372] A. No; I haven't.

Q. Well, on what do you base the answer that you made that there is no other carrier?

A. In the first place, it is a small town.

Mr. Fowler: Just a moment. That is objected to as immaterial. He said he made no investigation.

Exam. Carpenter: Objection sustained.

Mr. Howland: Very well.

Mr. Fowler: I move to strike the answer for the same reason.

Exam. Carpenter: Read the answer, please.

(Answer read.)

(Witness excused.)

GEORGE A. HIRL was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. What is your name, please?

A. George A. Hirl.

Q. Where do you live, Mr. Hirl?

A. My residence is in Davenport, Iowa. I have my business storage place in Walcott, Iowa.

Q. What kind of business do you have at Walcott?

A. I am a salesman for Walnut Grove Products Company, Atlantic, Iowa.

Q. Now, is that an animal feed?

[fol. 395] A. Yes, sir.

Q. Or animal mineral product, is it not?

A. Yes.

Q. And do you handle anything other than the Walnut Grove Products?

A. No; I don't.

Q. You understand that this hearing, although it involves the Iowa State operation, it is primarily directed towards interstate operations of the Rock Island Motor Transit Company?

A. Yes, sir.

Q. Do you have occasion to have any interstate shipments come into your warehouse or your house at Walcott?

A. No; I haven't.

Q. Your shipments, I would assume, would all come from Atlantic to your sales place?

A. It is delivered there under consignment. It is delivered by their trucks under consignment.

Q. The Walnut Grove Products Company is located At Atlantic, Iowa?

A. Yes.

Q. But you would like to be able to get Walnut Grove products from Atlantic to Walcott, is that right?

By Mr. Howland:

Q. Do you know what service there is to West Liberty by trucks other than the Rock Island Motor Transit Company?

A. No. I thought I just answered that, that there are none which stops there to my knowledge. Of course, we are right on No. 6 and there are a lot of trucks go through, but they are through trucks.

Q. Is there any other motor truck that renders a regular service to the merchants at West Liberty other than the Motor Transit Company?

Mr. Fowler: That is objected to for the reason that the witness has testified at least twice he doesn't know.

Mr. Howland: Why, he hasn't.

Mr. Fowler: It is my opinion he so testified, and I object [fol. 373] to it on that ground.

Exam. Carpenter: You may answer it, if you know.

The Witness: Ask that question again.

Exam. Carpenter: Read it.

(Question read.)

Exam. Carpenter: To your knowledge.

A. Not to my knowledge.

Exam. Carpenter: All right.

By Mr. Howland:

Q. Now, if this service that is now being rendered by the Rock Island Motor Transit Company was entirely eliminated from interstate points or was cut down to the point where maybe it was only twice a week, would that have any effect on your business, Mr. Kerr?

A. Yes, sir.

Mr. Fowler: Just a moment.

Exam. Carpenter: Don't answer.

Mr. Fowler: That is objected to as immaterial. Objected to for the reason that it assumes a fact not established in this record.

Exam. Carpenter: Objection overruled. Go ahead and answer it.

A. No; they have their own truck, see. They deliver to me.

Q. What interest do you have in this case?

A. Well——

[fol. 396] Mr. Fowler: Just a moment. That is objected to as immaterial, doesn't give me any opportunity to interpose an objection before the question.

Mr. Nolan: That is what I am trying to find out.

Exam. Carpenter: Reframe it.

By Mr. Nolan:

Q. Mr. Hirl, when I say what interest do you have in this case, do you have anything that is shipped by truck in and out of Walcott?

Mr. Fowler: From points outside of the State of Iowa.

Mr. Nolan: No; I never asked him that. I am just asking him if he does have.

Mr. Fowler: Just a moment, please. That is objected to unless the question is limited to interstate shipments.

Exam. Carpenter: Objection sustained. It wasn't limited to interstate shipments. I presume, Mr. Nolan, what you are trying to get at is whether he has any shipments in interstate commerce into or out of Walcott or Atlantic.

Mr. Nolan: I was hoping his answer would be "yes." Then I would find out where from.

Exam. Carpenter: Let's limit it to interstate commerce.

By Mr. Nolan:

Q. Do you have any shipments come in by truck to Walcott, Iowa, that originate or come from outside the State of Iowa?

A. No.

Q. What is your interest, if you have——

[fol. 397] Mr. Fowler: Now——

Mr. Nolan: Just a minute. There may be something we don't know about. He may be representing some company that is affected here.

By Mr. Howland:

Q. Now you may answer the question.
A. Yes; it would.
Q. In what respect?
A. Service. We built our trade on service and when we [fol. 374] order something we want it and we want it in a hurry.
Q. Do you know of any other concern presently in the field that can supply that service to you?

Mr. Fowler: That is objected to as repetitious.
Exam. Carpenter: It is repetitious. Objection sustained. He said he doesn't know of any other service.
Mr. Howland: You may cross-examine.
Exam. Carpenter: Mr. Fowler.

Cross-examination.

By Mr. Fowler:

Q. Mr. Kerr, you operate a lumberyard?
A. Yes, sir.
Q. Your lumber comes to you in carload lots by rail?
A. Most of it; yes, sir.
Q. And cement carload——
A. The same way.
Q. —by rail and all of your rough material comes to you by rail car?
A. What do you mean, the rough material, fencing and stuff like that?
Q. Talking about cement, coal.
A. We don't handle coal, but we handle cement and wire fencing, barbed wire.

By Exam. Carpenter:

Q. You don't handle cement at all?
A. Yes; we handle cement.

By Mr. Fowler:

Q. But I suppose the fencing and lumber and that sort [fol. 375] of thing comes to you by rail car, is that correct?

By Mr. Nolan:

Q. Why are you here as a witness? Let's put it that way.

Mr. Fowler: Objected to as immaterial to any issue in the case, calls for a speech from the witness, and doesn't give me a chance to interpose an objection to the question.

Exam. Carpenter: Objection sustained.

By Exam. Carpenter:

Q. Do you have any shipments moving out of Walcott to points in States other than Iowa?

A. No.

By Mr. Nolan:

Q. Do you represent anybody that is interested in having shipments come into Walcott from outside the State of Iowa or shipments that originate in Walcott that go to points outside the State of Iowa?

Mr. Nolan: Well, I guess that is all then.

Mr. Fowler: That is all. Thank you, sir.

(Witness excused.)

Mr. Fowler: Let's take a couple of minutes' recess.

Exam. Carpenter: All right.

(Short recess.)

M. J. Riley, recalled, testified further as follows:

[fol. 398] Direct examination.

By Mr. Nolan:

Q. Mr. Riley, you are the same M. J. Riley that was on the stand here a few minutes ago?

A. I am; yes.

Q. You were asked by counsel for the interveners in opposition to the application whether or not you had an occasion to file a complaint against some operation of the Rock Island Motor Transit in the State of Illinois. Now, for the purpose of the record, would you detail the facts in that situation?

A. Yes, sir.

Q. Now, your source of supply for your miscellaneous hardware is at what point?

A. Chicago, Hibbard, Spencer, Bartlett And Company.

Q. How frequently since the first of January 1952 have you had a shipment of hardware from Chicago, approximately?

A. Well, seven or eight—I am just guessing at that a little now. I would have to check that up.

Q. That is all right. What was the weight of those shipments?

A. They vary from small packages to——

Q. From a small package up to not exceeding 500 pounds?

A. It will run to a ton, a small package to a ton.

Q. From a small package up to a ton?

A. Yes, sir.

Q. Now, your implements, most of them I suppose you receive from the John Deere plant at Moline?

A. The most of them; yes, sir.

Q. And the complete implements are shipped to you by trucks other than the Rock Island Motor Transit, aren't they?

A. Well, yes and no. We may have an order in there now—to explain this a little; we have an order in for five or ten articles, complete units. They can't ship them all at once. They will call us up and say, "We can ship two today." We try to get that there with Rock Island Motor Transit because we can get the quicker service.

[fol. 376] Q. I thought generally they had their own trucks that deliver their——

A. We do. We have our own trucks, but they may be busy and we have to depend on someone else.

Mr. Howland: Mr. Fowler, were you referring to trucks of the supplier or trucks of Mr. Kerr's own firm?

Mr. Fowler: I was referring to trucks furnished by the supplier; that is what I had reference to.

By Mr. Fowler:

Q. Do we understand one another?

A. Let's get that again.

Mr. Fowler: Objected to as immaterial to any issue in this case.

Exam. Carpenter: Objection overruled. It was raised on that side of the table, Mr. Fowler.

Mr. Rosenbaum: The proceeding is a matter of record before the Commission, Mr. Examiner. I don't know why you want to burden this record with it.

Exam. Carpenter: I don't want the whole thing. If he wants to put a short synopsis of the thing in, I have no objection.

A. Several years ago, possibly 10 years ago, the Rock Island Motor Transit Company filed an application based on convenience and necessity for operating authority as a common carrier by motor vehicle between Peoria, Ill., on the one hand, and what we term the Tri Cities, Davenport, Iowa, Rock Island, Ill., and Moline, Ill., on the other hand.

That case was heard and Dohrn Transfer Company and [fol. 399] a number of other operators opposed it. However, when the decision came down on the case, it granted to the Rock Island Motor Transit Company a restricted operating authority between the points that I have just named, restricting them to coordinated rail service.

The carriers, including Dohrn, who had opposed the application thought we had half way won our case because we felt that the Rock Island Motor Transit was going to be allowed to operate only in the joint capacity with the railroad.

However, it developed that the Rock Island Motor Transit Company began to handle pure truck traffic by truck only on truck billing from and to Peoria, Illinois, and from and to the Tri Cities. We felt that that operation as conducted was in violation of the restricted authority given to them by the Commission.

We took up with the Rock Island Motor Transit Company our views of their violation of their authority, and they didn't agree that we were right. I filed a complaint before the Commission and that complaint was heard on a somewhat abbreviated record, conceded that they were doing such and such a thing, and left up to the Commission to decide whether or not the stipulated facts were or were not in violation of the operating authority.

Q. It is my understanding that ordinarily John Deere, in shipping assembled implements out to its dealers, furnish a transportation service themselves. It comes to you assembled on a truck, doesn't it?

A. Yes; but not from John Deere service. That is all f. o. b. the factory, if you understand the——

By Exam. Carpenter:

Q. Does John Deere send them out on their trucks or do you send your trucks in to get them?

A. No; we send our trucks in. They don't send trucks out.

By Mr. Fowler:

Q. In other words, you go in and get them yourself with your own trucks?

A. Yes, sir.

Q. About how far is West Liberty from Moline?

A. About 45 miles.

[fol. 377] Q. Then, as I understand your picture, you use both rail and motor service furnished by the Rock Island Motor Transit Company?

A. Yes, sir.

Q. You have been satisfied with the service?

A. Yes, sir.

Q. And you haven't had occasion to find out whether there is some other carrier who can give it to you since the first of the year, is that correct?

A. Yes, sir.

Mr. Fowler: That is all.

Exam. Carpenter: Any further cross-examination? Any redirect? You are excused.

(Witness excused.)

* * * * * * *

The Commission handed down a decision that it was in violation of their authority, and a cease-and-desist order was entered. That concerned only the operating authority [fol. 400] between the Tri Cities and Peoria, which was issued to them on the basis of a showing of convenience and necessity at a formal hearing.

After the cease-and-desist order, I have had no complaint whatever that they were in any way whatever violating the authority as the definition was reemphasized in the cease-and-desist order.

By Mr. Nolan:

Q. Now, Mr. Riley, you say you have been with the Dohrn Transfer Company since 1937?

A. Yes, sir.

Q. And during that period of time I believe you testified that your company has been actively engaged in the interlining of freight with the Rock Island Motor Transit Company at least since it started operating as successor to the White Line?

A. That is right.

Q. State whether or not in your duties you have attended various meetings for rate purposes, operating policies and things of that character in which representatives of the Rock Island Motor Transit Company participated.

A. I have; yes.

Mr. Fowler: Just a moment. Objected to as immaterial.

Exam. Carpenter: I will withhold the ruling on it, Mr. Fowler, at the present time.

What do you propose to develop by that, Mr. Nolan?

Mr. Nolan: I propose to develop that insofar as the operations of the Rock Island Motor Transit Company are [fol. 401] concerned over the years that the policies as followed by the management of the Rock Island Motor Transit Company have been solely in the interest of motor carrier operation, that there is no evidence of any domination or influence of the railroad management demonstrated or shown; in other words, to show that the Rock Island Motor Transit Company in its operations has been strictly in the interest of motor carrier operations without any

[fol. 378] M. J. RILEY was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you state your name, place of residence, and occupation?

A. My name is M. J. Riley.

Q. And where do you live, Mr. Riley?

A. Rock Island, Ill.

Q. What is your occupation?

A. I am vice president and traffic manager of Dohrn Transfer Company?

Q. And how long have you been connected with the Dohrn Transfer Company.

A. Since 1937.

Q. And what is the work or the business of the Dohrn Transfer Company?

A. Dohrn Transfer Company is a common carrier of general commodities by motor freight.

Q. In what territory does it operate?

[fol. 379] A. Dohrn operates generally in a territory bounded by the Mississippi River points of Clinton, Iowa, Bettendorf, Iowa, Davenport, Iowa, East Moline, Ill., Moline, Ill., Rock Island, Ill., Burlington, Iowa, Keokuk, Iowa, Quincy, Ill., and then to the extreme south of St. Louis, Mo., on the east by Indianapolis, Ind., and north by Chicago and Rockford, Ill.; also serving such points as Abingdon, Ill., Galesburg, Ill., Peoria, Ill., Rock Falls, Ill., and Sterling, Ill.

Q. Now, Mr. Riley, state what the fact is as to whether or not the Dohrn Transfer Company is one of the older motor carriers in the Midwest.

A. Yes; Dohrn Transfer Company has been operating since 1921 or 1922.

Q. Would you state for the record the approximate number of employees of the Dohrn Transfer Company and the approximate number of units of equipment owned and operated by them?

A. Yes. Dohrn Transfer has slightly in excess of 600

domination or influence of the parent railroad company in the truck line management.

Mr. Fowler: Most certainly it is immaterial to this record, upon the statement of counsel. Calls for an incompetent conclusion and opinion of the witness.

Exam. Carpenter: I will sustain the objection.

Mr. Nolan: In connection with the testimony of the witness, Mr. Riley, the interveners represented by me propose to show, and offer to show by him, that throughout the years since 1938 that he has been active in the management of the Dohrn Transfer Company and that in his occupation with the Dohrn Transfer Company he has had numerous occasions to participate with representatives of the Rock Island Motor Transit Company and other motor carriers in rate-making policies, in policy generally affecting the motor carrier industry in the Midwest, and that at no time in his participation with representatives of the Rock Island Motor Transit Company and others has there been any evidence of any domination or influence ex- [fol. 401] ercised by the Rock Island Railroad Company in seeking to interject into the operations of the Rock Island Motor Transit Company or other motor carriers any railroad policies in regard to motor carrier operations or with respect to rate matters, and if the witness were permitted to testify he would so testify in that respect.

Mr. Fowler: The offer of proof is objected to for the reason it is immaterial to any issue in this case.

Exam. Carpenter: The offer of proof will stand. The objection is overruled.

Mr. Nolan: That is all.

Mr. Fowler: No cross-examination.

(Witness excused.)

GAIL C. HUGHES was sworn and testified as follows:

Direct Examination.

By Mr. Howland:

Q. State your name, please, and in giving your evidence speak so that we can all get it.

employees and as to equipment we have 452 pieces of equipment.

Q. Now, Mr. Riley, state whether or not the Dohrn Transfer Company is active in motor carrier activities such as being a member of various motor carrier associations, traffic bureaus, and things of that character.

Mr. Fowler: Objected to as immaterial.

Exam. Carpenter: Objection overruled.

A. Yes; Dohrn Transfer Company is a member of ATA. [fol. 380] I personally am a member of the national traffic committee. Dohrn Transfer Company belongs to various chambers of commerce in the towns they operate in. Our personnel also belongs to the various traffic clubs. I personally am president of the Tri-City traffic club. Mr. Dohrn and myself both hold memberships in the Chicago traffic club.

Q. What is the fact as to whether or not the Dohrn Transfer Company also is a participating member of the various tariff publishing bureaus?

A. Yes. Dohrn participates in the tariff publications of the Central States Motor Freight Tariff Bureau and the Midwest Motor Freight Bureau, Eastern Central Bureau, and the Central and Southern Bureau, the Rocky Mountain Tariff Bureau—I believe that is most of them.

Q. Mr. Riley, state whether or not you are familiar in a general way with the territory covered by the Rock Island Motor Transit application in this case?

A. Yes; I am.

Q. Particularly between the Tri Cities and Omaha, Nebr., and intermediate points?

A. That is my understanding of it; yes.

Q. State whether or not your company has during the past years interlines with the Rock Island Motor Transit Company at the Tri-City gateway.

A. Yes; we have interlined considerable traffic with the [fol. 381] Rock Island Motor Transit Company at the Tri Cities.

Q. Do you have any data covering any period of time showing typical interline operations between your company and the Rock Island Motor Transit Company for territory

A. My name is Gail C. Hughes.

Q. Your home is where?

A. 2933 Grand Avenue, Davenport, Iowa.

Q. Your business is what, Mr. Hughes?

A. I am terminal manager at Davenport for the Rock Island Motor Transit Company.

Q. How long have you worked for the Rock Island Motor Transit Company and in what capacities?

[fol. 403] A. In 1939 I started with the company as a driver. In 1946 I went on the road as a road supervisor, and in 1948 I was made terminal manager of Davenport.

Q. And you have continued in that post to the present time?

A. That is right.

Q. The Tri-City terminal of the Rock Island Motor Transit Company, I take it, is located in Davenport?

A. Yes, sir.

Q. And where in Davenport is it that the terminal is located?

A. It is located at 505 Iowa Street.

Q. Is that a facility that is owned by the Rock Island Railroad?

A. Yes, sir.

Q. Or otherwise. Does the Rock Island Motor Transit Company use a part of the Davenport freight house of the Rock Island Railroad?

A. Yes, sir.

Q. What size facilities do you have there? Room for how many trucks to dock and the size of your loading platform and matters of that kind.

A. We have 16 doors on our outbound dock and 8 doors on our inbound city dock.

Q. About what is the length of the platform where you handle, transfer your freight?

A. I would say close to 250 feet.

Q. Now, Mr. Hughes, how many employees do you have [fol. 404] in the Tri-City terminal? First, is this Davenport terminal the only one that you have for all the Tri-City area?

A. It is the only terminal; yes, sir.

served either directly or in the course of to destination the line involving the Rock Island Motor Transit Company in this case?

A. Yes; I do have. In the last few days, I made a personal survey of our records and found that in the year 1951 we gave to the Rock Island Motor Transit Company something over 2 million pounds of freight.

Q. Where was that exchange made?

A. At the Tri Cities.

Q. And would you state for the record the typical shipments between origin and destination on which interline was made?

A. I have noted some of the shipments moving in the early part of March. For example——

By Mr. Fowler:

Q. Is that March 1951?

A. March 1952.

—from St. Louis, Mo., to Columbus Junction, Iowa. St. Louis, Mo., to Ames, Iowa. St. Louis to Iowa City. Galesburg, Ill., to Fairfield, Iowa. Rockford, Ill., to West Liberty, Iowa. Galesburg, Ill., to Ames, Iowa. Sterling, Ill., to Oakland, Iowa. Abingdon, Ill., to Atlantic, Iowa. St. Louis, Mo., to Wilton Junction, Iowa. Quincy, Ill., to Grinnell, Iowa. St. Louis, Mo., to Washington, Iowa. Mor- [fol. 382] rison, Ill., to Audubon, Iowa. St. Louis, Mo., to Des Moines. Galesburg, Ill., to Cedar Rapids, Iowa. Peoria, Ill., to Mason City, Iowa. Indianapolis, Ind., to Ainsworth, Iowa. Abingdon, Ill., to Iowa City. Indianapolis, Ind., to Ainsworth, Iowa.

Those are just towns called hit and miss and I think are typical of what we have been doing in the past with Rock Island Motor.

By Mr. Nolan:

Q. You say that covered the fore part of this month?

A. Early part of March 1952.

Q. Now, on the reverse order, state whether or not the Rock Island Motor Transit Company interlines freight originating in the Iowa territory to points on your system.

Q. In other words, you don't have anything on the Illinois side of the Mississippi River in the Tri-City area?

A. That is right.

Q. How many employees do you have under your supervision there at the Tri-City terminal?

A. I have 56 employees.

Q. In what types of employment?

A. I have eight office employees—is that what you mean?

Q. Yes.

A. —and 48 drivers and dockmen.

Q. And how many pickup-and-delivery drivers do you employ?

A. 18.

Q. And they serve the whole Tri-City area, I take it?

A. Tri Cities.

Q. Now, I take it that this figure which you have given us does not include the over-the-road drivers, or does it include——

A. That included the over-the-road drivers.

Q. That included the over-the-road drivers under your supervision?

A. That is right.

Q. Now, I would like for you to state what peddle runs you have operating westerly from Davenport along high [fol. 405] way 6 and to Cedar Rapids and Iowa City and those points immediately west of Davenport, just how the trucks are dispatched and what traffic they handle and how they are operated and the times.

A. We have what we call a west peddle operation that runs as far as Atalissa. At that point he turns and returns to Davenport, peddling all intermediate points.

Our Cedar Rapids units is a daily operation, peddling towns Lone Tree and Nichols and Muscatine occasionally on his trip to Cedar Rapids.

We also have what we call a south peddle operation operating between Davenport, Ottumwa, and Des Moines, peddling intermediate points.

Q. That is not on U. S. highway 6?

A. That is not on U. S. highway 6; no, sir.

Q. Now, you refer to a Cedar Rapids— First, you referred to what you call your west peddler. You said, I

which was given your company at the Tri-City gateway.

A. There has been freight moving from points in Iowa originating by the Rock Island Motor Transit Company. However, I didn't tabulate them.

Q. Now, these shipments that you have referred to as typical shipments, they were under the 5,000-pound specification, were they not?

A. Yes; that is true.

Q. Mr. Riley, do you know of any other carrier that performs a local peddler service to the points in Iowa served by the Rock Island Motor Transit between the Tri Cities and Omaha, Nebr., other than Rock Island Motor Transit?

[fol. 383] A. Excepting one or two smaller points. For instance, West Liberty, Iowa, I think we could get service by Poole Transfer, but taking the towns one after the other over highway 6 from the Tri Cities to Omaha, I know of no one who will render consistent peddler service to those points.

Q. How about on truckload shipments; do you have an outlet for those with other carriers?

A. To the larger points, Des Moines, we have an outlet, of course. Watson Bros. will handle truckloads to Des Moines.

Q. Have you had any experience of some of the other carriers refusing the so-called l. t.-l. shipments to some of these intermediate or small towns?

A. Yes. That record has built itself up over a period of years until it has reached such a stage that when we are dealing with small shipments we don't think of the other carriers. If it is a Rock Island Motor point, we can depend on their service, so we no longer offer it to the other carriers because we have learned from experience what the outcome will be.

Q. From your experience, Mr. Riley, over the years in connection with motor carrier transportation service, state whether or not in your opinion there is a need for the continuation of the Rock Island Motor Transit as it has operated in the past years.

Mr. Fowler: That is objected to— Oh, let it go. Withdraw it.

believe, that that proceeds west on highway 6 as far as Atalissa. What intermediate points does that serve? Does it serve all points on U. S. highway 6 or adjacent thereto?

A. Yes, sir.

Q. All right, name those points that are served by that run.

A. Walcott, Stockton, Durant. Sunbury is off highway 6. Wilton Junction, Moscow, and Atalissa.

By Exam. Carpenter:

Q. Did I understand correctly that those points were served on the return trip?

[fol. 406] A. They are served both ways.

Q. They are served both ways?

A. Yes.

By Mr. Howland:

Q. What time does that truck customarily leave the Davenport terminal?

A. Seven o'clock.

Q. In the morning?

A. That's right.

Q. And about what time does the run customarily return back to Davenport?

A. Usually between the hours of 4:30 and 6:30.

Q. Now, does this truck on its westward trip perform both a delivery and a pickup service or is it confined to a delivery service?

A. It is store-door service.

Q. Well, but I mean do you both pick up freight and deliver freight——

A. That is right.

Q. —at the same time or do you run on out to Atalissa and then come back and make your pickups?

A. No; he usually makes his deliveries and makes his pickups on his return trip.

Exam. Carpenter: Wait a minute. I think we are mixed up there.

Mr. Howland: I want to straighten that out.

[fol. 384] Exam. Carpenter: Go ahead and answer.

A. Yes. So far as our operation is concerned, the necessity exists for the operation of the Rock Island Motor Transit to give us an outlet into those small towns in Iowa on traffic originating in our territory.

By Mr. Nolan:

Q. Is there anything else, Mr. Riley? Just a minute. Now, Mr. Riley, you understand that the Rock Island Motor Transit Company is now restricted to a 5,000-pound shipment?

A. I do; yes.

Q. State whether or not in the course of business of your company if there would be occasions when there would be shipments to some small town or some point along the line which would exceed 5,000 pounds——

Mr. Fowler: That is objected to——

By Mr. Nolan:

Q. —which your company would tender to the Rock Island Motor Transit Company.

Mr. Fowler: That is objected to as immaterial, calling for evidence which is purely speculation on this record.

Exam. Carpenter: Objection overruled.

A. Basing my answer on our experience in the past, there are numerous volume shipments going into Iowa and should the restriction not apply against the Rock Island Motor Transit we would have need for their service on the larger shipments when they happen to come our way.

[fol. 385] By Mr. Nolan:

Q. Is there anything else, Mr. Riley?

A. I believe not.

Mr. Nolan: You know more about this than I do.

Exam. Carpenter: Cross-examine, Mr. Fowler.

[fol. 407] Exam. Carpenter: Read it, Mr. Reporter, please.

(Record read.)

By Mr. Howland:

Q. As I understand it then, and I want to be sure and we want to have this definite——

Exam. Carpenter: I think you see what the trouble is.
Mr. Howland: Yes. The trouble is with my question.

By Mr. Howland:

Q. As I understand it then, the truck leaves Davenport in the morning with a load of freight and delivers that freight out to these towns as far as Atalissa, then returns on highway 6 and on the return trip stops at each of these towns and picks up any shipments that are being made from those towns to some other destination.

A. Yes.

By Exam. Carpenter:

Q. That is contrary to the answer you gave me a while ago, is it not, to a question I asked you, whether he made the pickups on the return trip only?

A. We make pickups on the return trip.

Q. You answered me you made pickups both going out and coming in.

Mr. Howland: I think we have got it straight.
Exam. Carpenter: I think so.

By Mr. Howland:

Q. On this run, what freight is handled by the truck? and by that I mean if you have any rail freight or any freight originating at Davenport, intrastate, or any interstate freight, is it all handled in the same truck?

[fol. 408] A. Yes, sir.

Q. Now, on occasion does this truck that makes the west peddle run go beyond Atalissa to West Liberty?

Cross-examination.

By Mr. Fowler:

Q. As I understand it, you have an interchange agreement with the Rock Island Motor Transit Company at Rock Island?

A. Freight moving from our line to their line is given to them at their Davenport terminal and freight which comes to us is given to us at our Rock Island terminal.

Q. It is a mutual interline agreement at Davenport?

A. That is right.

Q. And most of the shipments are l. t. l. shipments?

A. Of necessity, yes, at the present time.

Q. Very few of them are in excess of 2,000 pounds?

A. I would say that the average of them runs 2,000 pounds or less; yes.

Mr. Fowler: That is all.

Exam. Carpenter: Any further cross-examination?

By Mr. Rosenbaum:

Q. Are those points that you mentioned, Mr. Riley, points that you don't have the authority to serve?

A. We don't have authority to serve the inland Iowa points; that is true.

Q. Are you willing to see the subsidiary of the Rock [fol. 386] Island Railroad operate as an all-out motor carrier in this territory?

A. I wouldn't be concerned with the scope of their operation at all. It isn't competitive to us so I wouldn't feel free to express any opposition to it at all.

Q. You did have some opposition to it in your own territory at one time?

A. I did have; yes.

Q. You did file a complaint that they were operating beyond the scope of their authority?

A. I did; yes.

Mr. Rosenbaum: That is all I have.

Exam. Carpenter: Any further cross-examination?

Mr. Fowler: Wait a minute.

A. It has.

Q. On what occasions does it do that.

A. Previously, the contract drayman at West Liberty would call our terminal, asking us to dispatch this truck in for a large pickup at West Liberty.

Q. When you say "previously," is that still done?

A. We handle the pickup and delivery now in West Liberty with our own truck.

Q. You have your own truck?

A. That's right.

Q. On the street in West Liberty?

A. That's right.

Q. Instead of haying a contract——

A. Contract drayman.

Q. —a contract drayman to handle your business there?

A. That's right.

Q. How is the West Liberty freight picked up? By what truck is eastbound freight which may be at West Liberty for movement to Davenport or beyond, how is that handled?

A. Trucks leaving Des Moines drop at Iowa City and are dispatched into West Liberty to pick up eastbound freight.

Q. And they bring it on into——

[fol. 409] A. Davenport.

Q. —to Davenport. So that at the present time there is no occasion for this so-called west peddler to go beyond Atalissa?

A. That is right.

Q. And it is a turn-around service?

A. That is right.

Q. Now, which direction is the traffic heavier? Is it in the outbound movement from Davenport to Atalissa? Is the tonnage heavier?

A. It is heavier westbound.

Q. About what tonnage does your truck pick up on the return trip for Davenport or beyond?

A. They are small, usually from 800 to 2,000 pounds.

Q. Would that be the total volume——

A. That's right.

Q. —on the return trip?

[fol. 430] A. What transportation agency have you been using on your inbound shipments into your foundry at Stockton?

A. Rock Island does it all, Rock Island Motor.

Q. Why is that?

A. There isn't any other truck comes to Stockton.

Q. Stockton is located off of U. S. highway 6, is it not?

A. That is right.

Q. With what frequency would you say you have shipments coming into your plant there at Stockton by the Rock Island Motor Transit?

A. Practically every day.

Q. Now, on your outbound shipments, how do they move?

A. All Rock Island Motor.

Q. What frequency do you have outbound shipments?

A. Every day.

Q. Now, are you able to tell us what would be the average size of your inbound shipment from out-of-State points?

A. You mean the average amount?

Q. Yes.

A. Well, it runs anywhere from— Well, 500 pounds up to 2 or 3 or 4 ton. Sometimes a carload, but it comes by car.

Q. I am talking about truck shipments.

A. That is right.

Q. Your outbound shipments, what are the size of those shipments?

[fol. 431] A. Well, I ship them from a hundred pounds up to the limit.

Q. Now, the fact that there is a limit or there would be a limitation upon the size of shipments that the Rock Island Motor Transit Company, say, for instance, 5,000-pound limitation on a shipment, what effect does that have upon your inbound and outbound shipments?

A. Well, inbound not too much trouble, but outbound, a lot of instances that I have 10 tons going out at one time that goes to one stop, and I got to split it all up and ship it at different times the way it is. Iron is very heavy. It don't take much of it to weigh 5 ton and I got to split it up to——

Q. To the 2 and a half ton maximum, is that right?

A. That is it.

A. That is right.

Q. Unless you had some unusual volume of business

A. That is right.

Q. And about what would your volume be on the west bound movement, the average tonnage?

A. I would say approximately from 10 to 14 thousand pounds.

Q. How many days a week do you operate that west peddler?

A. Five days.

Q. Now, can you tell us about how much of the freight [fol. 410] that is handled on that west peddler truck constitutes freight moving on railroad billing?

A. I would say about 30 percent.

Q. Mr. Hughes, since the 3rd of November 1951, the Rock Island Motor Transit Company has been operating with a maximum restriction upon any one shipment of 5,000 pounds. What is the fact as to whether you have had requests for service for shipments exceeding 5,000 pounds, either into Davenport or out of the Davenport area in interstate commerce?

A. Well, we have had numerous requests.

Q. You have had numerous requests, and what type and character of shipments have you been asked to furnish transportation service for where the weight was in excess of 5,000 pounds?

A. Farm implements.

Q. On Farm implements?

A. Yes, sir.

By Exam. Carpenter:

Q. You have answered Mr. Howland's question as to inbound and outbound; you said "yes." You mean both or just what did you mean, whether it is inbound or outbound?

A. It is outbound.

Exam. Carpenter: All right.

By Mr. Howland:

Q. Do you have any particular industries located at points on this west peddle run between Davenport and

Q. You say the Rock Island Motor Transit Company is the only trucking company that affords you any transportation service?

A. That is the only one I have ever seen in the town.

Q. What would be the effect on your business if the Rock Island Motor Transit Company were compelled to cease operation or was materially curtailed in its operations with regard to size of shipment?

Mr. Fowler: Objected to as immaterial; for the further reason no such fact has been established in this record.

Exam. Carpenter: Objection overruled. Answer the question.

A. I have shipments that I have to make every day. Well, my business is founded on quick delivery and I am [fol. 432] very sure I am going to get it when I ship it out of there and I specify what I want done with it and it is always done.

Q. What do you say as to the quality of the service given by the Rock Island Motor Transit Company in the past?

A. Well, I haven't had any other, but I haven't got any complaints on what I have had.

Q. Would you say it was satisfactory?

A. Very much so.

Q. Do you know of any other transportation agency that would give you the same service that the Rock Island Motor Transit has been giving you in the past?

A. No; I don't.

Mr. Nolan: You may cross-examine.

Exam. Carpenter: Mr. Fowler.

Cross-examination.

By Mr. Fowler:

Q. As I understand it, you get your pig iron, you said, from Duluth, Minn.?

A. Right.

Q. How is that shipped from Duluth?

A. It is in carload lots.

Q. It is in carload lots?

Atalissa that have occasion to require service for shipments in excess of 5,000 pounds?

[fol. 411] A. Yes, sir.

Q. At what points have you experienced that?

A. Durant and Stockton.

Q. Durant and Stockton?

A. Yes, sir.

Q. And what is the nature of the shipments at those points?

A. Aluminum pigs.

Q. That is aluminum castings?

A. That is bars. They melt them down.

Q. Those aluminum pigs or aluminum bars, what type of industry uses those?

A. Foundries.

Q. The foundries?

A. Yes, sir.

Q. And are there foundries both at——

A. Stockton and Durant.

Q. Stockton and Walcott?

A. Yes; and there is one at Walcott, too.

Q. And Durant, I believe there is a small foundry at Durant?

A. That's right.

Q. Have the foundries in those towns, or some of them, requested service on shipments in excess of 5,000 pounds?

A. You mean outbound?

Q. Well, moving either way.

A. Well, yes.

[fol. 412] Q. Well, tell us about the movement. What service you have been asked to perform and haven't been able to perform because of the weight restriction.

A. The Durant foundry is very interested in getting these aluminum pigs in and their service inbound to the plant has been irregular. That is the larger account on that run.

Q. That is the Durant foundry?

A. That is right.

Q. And when you say the service has been irregular, what do you mean by that? Haven't you been able to perform the service subject to the restriction?

A. That is right.

Q. In other words, you get your pig iron from Duluth, Minn., in rail car lots?

A. That is right.

[fol. 433] Q. How about your pig iron from Milwaukee?

A. We get our coke from Milwaukee.

Q. Coke?

A. That is right.

Q. And in what quantities do you get that?

A. Well, when they can give us carload lot, we get carload lot.

Q. So that generally comes in in rail car, does it?

A. That is right.

Q. Your outbound shipments, you say that you have a shipment practically every day?

A. That's right.

Q. And it would range anywhere from a hundred pounds up to a car, is that right?

A. Sometimes I would have a carload ready; yes.

Q. And the Rock Island is the only carrier you have been using at least?

A. Yes; that is the only one.

Q. And is Stockton located on the rail line of the Rock Island Railroad?

A. It is.

Q. But it is off U. S. highway 6 about how far?

A. I would say about a mile, a mile and a half.

Q. How large a place is it?

A. What?

Q. How large is stockton? How large is it?

[fol. 434] A. I think about 150 people live there.

Q. With respect to your outbound shipments, what are your principal points of shipment?

A. Well, all over the country.

Q. All over the country.

A. Last night I shipped to San Antonio, Texas, Virginia, Pennsylvania, and Cleveland, Ohio, last night, four different shipments.

Q. You shipped those Rock Island Motor Transit or Rock Island Railroad?

A. Motor Transit.

A. These aluminum pigs move truckload and in excess of 5,000 pounds.

Q. Well, what do you mean by the service had been irregular, that you hadn't been able to handle it or what?

A. We can handle up to 5,000, but that was the limit.

Q. But there have been times when they needed service for more than 5,000?

A. That is true.

Q. Now, you interline freight at the Tri-City terminal with other carriers located at Rock Island and Moline and East Moline, Ill., as well as some carriers at Davenport, I take it?

A. That is right.

Q. What has been your experience in your employment there that you have received shipments from carriers at [fol. 413] Davenport who themselves have the authority to serve points between Atalissa and Davenport, but these carriers have delivered shipments to you to perform the transportation service between Davenport and the destination point?

A. We have had occasional shipments.

Q. About how frequently has that occurred?

A. I would say almost daily.

By Exam. Carpenter:

Q. Over what period of time?

Mr. Howland: The examiner propounded a question.

A. Over what period of time?

By Exam. Carpenter:

Q. Yes, sir.

A. I could find some recently.

By Mr. Howland:

Q. Well, how far back does that extend?

A. Well, it extends ever since I have been agent at Davenport.

Q. Has it continued up to the present time?

A. Yes, sir.

Mr. Fowler: That is all.

Exam. Carpenter: Any further cross-examination? Any redirect?

Redirect examination.

By Mr. Howland:

Q. I would like to ask one or two questions, Mr. Crumly. How many employees do you have at your foundry?

A. I think there is 25 right now.

Q. Some of them live in Davenport or other nearby points?

A. Most of them do, yes; from Muscatine to Davenport.

Q. Is your business increasing or otherwise?

A. I would say it was increasing. In the last 2 years we have more than tripled our production.

Q. And that is a grey iron foundry?

A. Right.

[fol. 435] Q. Making castings of various types and kinds to specification. Are the castings made in accordance with specifications furnished by the buyer?

A. That is right; yes.

Mr. Howland: That is all I have.

Exam. Carpenter: Re-cross? You are excused.

(Witness excused.)

Mr. Nolan: The next witness is Mr. Turner.

Lester Turner was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Mr. Turner, give us your name and place of residence and occupation.

A. Lester Turner, Durant, Iowa, manager, Farmers Co-operative Elevator Company, Stockton, Iowa.

Q. About what is the size or weight of these shipments so tendered by other carriers having authority to serve the destination point?

A. They are usually shipments which are small, a minimum of possibly 2 or 3 hundred pounds.

Q. Either minimum shipments taking the minimum charge——

A. That's right.

Q. —or not more than 3 to 4 hundred pounds?

A. That's right.

[fol. 414] Q. What is the general type of the commodities that are tendered in that respect; that is, any particular kind that you have in mind?

A. Well, there are drugs and miscellaneous farm implements.

Q. When you say miscellaneous farm implements, to what are you referring, Mr. Hughes? What do you mean by miscellaneous farm implements, small implements?

A. Repair parts.

Q. Repair parts?

A. Yes, sir.

Q. A part for a plow or a tractor or any other farm implement that would probably not weigh over the 3 or 4 hundred pounds that you have been talking about?

A. That is right.

Mr. Howland: I think you may cross-examine.

Exam. Carpenter: Mr. Fowler.

Cross-examination.

By Mr. Fowler:

Q. Are the freight docks of the Rock Island Motor Transit Company and the freight dock of the Rock Island Railroad located in the same building at Davenport?

A. Yes, sir.

Q. And as I understand it, you handle freight under rail billing on your trucks?

A. Yes, sir.

Q. As well as freight under Rock Island Motor Transit billing?

[fol. 415] A. Yes, sir.

Q. In the same truck?

A. Yes, sir.

Q. And by the same token, do you handle by rail car out of there freight that is under truck billing?

A. Pardon?

Mr. Fowler: Read the question.

(Question read.)

A. Rail car?

By Mr. Fowler:

Q. Well, for instance, you have assembled some freight at Davenport that is tendered to you under truck billing. Do you physically transport that by rail car?

A. No, sir.

Q. In no event?

A. No, sir.

Q. What is the reason for putting the rail-billed freight on the motor truck?

A. The rail-billed freight? We make rail pickups and deliveries at these towns.

Q. In other words, your pickup and delivery service there is a combined pickup and delivery service?

A. Yes, sir.

Q. The same pickup is both for rail-billed freight as well as truck-billed freight?

A. Yes, sir.

[fol. 416] Q. And then you have the choice of physically transporting that freight either by truck or by rail car, as you choose?

A. I am not—I don't quite understand what you mean by rail car.

Mr. Fowler: Well, what was that question?

(Question read.)

Exam. Carpenter: That is both motor carrier and rail-billed freight?

Mr. Fowler: Yes.

A. These are l. c. l. shipments.

By Mr. Fowler:

Q. I understand.

A. We handle them.

Q. In other words, then, the operation there is an integral operation both as to rail and motor truck?

A. Yes, sir.

By Exam. Carpenter:

Q. If it was on rail billing, you move it into Davenport and turn it over to the railroad?

A. That is right.

Q. And if it is on motor carrier billing, it will move all the way through by motor carrier?

A. That is right.

Mr. Fowler: Wait a minute. Let me find this out.

Exam. Carpenter: Go ahead.

By Mr. Fowler:

Q. Let me ask you about this: Supposing you got a shipment originating at Moline destined to Atalissa. Let's [fol. 417] say it is on rail billing. Will you handle it by truck?

A. It will move by truck on rail billing.

Q. Is that right?

A. That is right.

Q. Now, let's suppose the same shipment moves under truck billing, will it ever be handled by rail car?

A. No.

Q. Doesn't the Rock Island Railroad have a way-freight service out to these points?

A. A way-freight service?

Q. I mean a local freight service out to these points by rail?

A. No.

Q. They have no rail service at all?

A. No. l. c. l.

Q. On l. c. l.?

A. Just carload.

Q. Is that true? How far west is that true?

Q. I am talking about some out-of-State points. Do you use any of the hog feeders or hog waterers?

A. We get quite a few hog feeders from the—I believe their headquarters in Coldwater, Ohio—I wouldn't be certain of that—the PaxCo. Those are shipped out then from their distributing point in East Moline.

Q. How about hog oilers or cattle oilers, things like that?

A. There is some of that that originates in Ohio and points of that kind, but—well, we buy mostly Iowa products.

Q. How about like tank heaters, do you handle those?

A. What?

Q. Do you handle any water-tank heaters?

[fol. 439] A. Oh, yes.

Q. Where do they originate?

A. We get some stuff from Maryville, Mo. That is mostly tractor chains and stuff of that kind comes out of Maryville, and some originates from Butler, Kansas City. Of course, they are sold through maybe some firm in Iowa, but the shipments are shipped from Kansas City, and also we get some from St. Louis.

Q. They are shipped direct either from the factor- or from some distributing point outside the State, is that right?

A. That is right.

Q. I assume those shipments you referred to as farm tools and farm implements and farm supplies, those come in in less-than-truckload quantities?

A. Oh, yes. Practically all, the majority of our shipments, I would say the majority of our shipments are what you might call drop shipments, from 80 pounds up to 5,000 pounds.

Q. With what frequency do you get shipments into Stockton from various out-of-State points?

A. By Rock Island Motor.

Q. I mean how often do you get them.

A. How often?

Q. Yes.

A. I would say practically every—I would say the truck is there at least four times a week. Hardly a day when we are not having stuff delivered to us.

[fol. 440] Q. Do you have occasion to have shipments in

A. These l. c. l. shipments are handled by truck as far, on my operation, as Brooklyn.

Q. Insofar as you know, there is no local freight service by rail to those points?

A. No, sir.

Q. On l. c. l. or l. t. l. shipments?

A. That is right.

Q. But you do have a rail service out there for carload? [fol. 418] A. Yes, sir.

Q. Now, the aluminum business at Durant, how are you dling that now?

A. How are we handling it? We have lost that business.

Q. What other carrier is handling it?

A. I don't know.

Q. But some other carrier is handling it?

A. I would assume.

Q. Now, who are the carriers that have authority to serve points on U. S. highway 6 that have tendered to you shipments destined to points which they themselves have authority to serve?

A. Merchants.

Q. That is the Merchants Motor Freight?

A. Yes.

Q. Is that the outfit that has its headquarters in Minneapolis?

A. Yes.

Mr. Howland: St. Paul, as a matter of fact, Mr. *Howland.*

By Mr. Fowler:

Q. Merchants Motor Freight.

A. Keeshin.

Q. Keeshin Motor Express, I suppose that is. And what other?

A. H & W.

Q. What other?

A. Offhand, that is all that I know of.

Q. What points on U. S. highway 6 between Davenport and Iowa City does Merchants Motor Freight have au- [fol. 419] thority to serve, if you know?

A. Well, I am almost certain they have authority into Wilton Junction——

excess of 5,000 pounds coming into your place of business?

A. Not very often that we have anything larger than that coming in.

Q. Have you had occasion to have shipments come in before there was any limitation on the Rock Island Motor?

A. Yes; we have had seed from the company when it would have to be broken down into maybe two shipments.

Q. What transportation facilities do you have to bring in these out-of-State shipments to your place of business?

A. Transportation?

Q. Yes; what transportation.

A. Well, I would say Rock Island Motor Transit and, of course, Rock Island Railroad, which is about 3 blocks from the place of business.

Q. Do you know of any other truck company that serves Stockton other than the Rock Island Motor Transit for these less-than-truckload shipments?

A. I don't think in my recollection since I have been there, I don't think any other truck in 15 years has ever called, has ever been to our place of business—that is, that was a regular carrier of freight. Might have been a private-owned truck like Central States Steel or something like that, but these are for their own delivery only.

Q. How about any of the so-called regular trucking com-
[fol. 441] panies like Watson or Des Moines Transportation Company or Western Transportation Company or Merchants Motor Freight, have those companies ever served you?

A. I don't think so.

Q. And then is it fair to say you are dependent upon the Rock Island Motor Transit Company for less-than-truckload shipments coming into your place of business?

A. We are very dependent on them and are going to be very much more so in a very short time.

Q. Why is that?

A. Because International Harvester is closing their Davenport repair and attachment branch and are moving that to Chicago. In other words, they are setting up these larger parts depots and all of our parts and attachments for machinery and such as that we will have to look to the Chicago depot for the origin of them, and that is going

Q. And have they——

A. —and Durant.

Q. And have they tendered you shipments destined to Wilton Junction and Durant?

A. Yes, sir.

Q. Of the type you have described?

A. Yes.

Q. Small implement parts and small shipments of drugs?

A. Yes.

Q. Now, getting back again to your terminal operation, which seems to be a combination of rail and motor truck terminal operation, do you intermingle your dockmen for that?

Mr. Holland: Just a minute. That is objected to as argumentative, improper cross-examination, assuming facts not shown.

Mr. Fowler: I will withdraw the question and ask you this:

By Mr. Fowler:

Q. In handling the rail and truck freight at your Davenport terminal, is it done by the same men?

A. We maintain separate forces.

Q. I asked you if it was the same man, same individual.

A. No.

Q. So that you have a dock force that handles exclusively [fol. 420] your truck freight?

A. The rail tenders our merchandise to us and we handle it.

Q. Well, do you care to answer my question? Do you have a dock force that handles exclusively your truck freight?

A. Yes, sir.

Q. And then you have a dock force that handles exclusively railroad?

A. No, sir.

Q. Pardon?

A. No, sir.

Q. Then how do you do it? It isn't a trap question. I am trying to find out.

to require overnight service almost to us there. That is what we are very much going to be dependent upon.

Q. Your company is the franchise International dealer at Stockton?

A. Yes, sir.

Q. And you have a territory served by your company for Internatio-al equipment and parts, is that right?

A. That is right. International farm equipment and refrigeration—well, all the line except their truck line.

[fol. 442] Q. What is the fact as to whether or not the International Harvester Company has gone into the home appliance business in addition to the farm implement business?

A. How is that?

Mr. Nolan: Read the question.

(Question read.)

A. Well, the only thing that I know of that they went into the home appliances is in refrigeration only.

Q. Does that consist of both refrigerators and deepfreezes?

A. Refrigerators, deepfreezers, milk coolers—of course, they are not home appliances, milk coolers, but refrigerators and deepfreezes.

Q. Do you handle refrigerators and deepfreezes?

A. Yes, sir.

Q. Milk coolers?

A. Yes, sir.

Q. Where do you get those appliances?

A. Well, we usually get those direct from the Davenport branch, but if we don't call at a specified time we are under agreement, we have an agreement whereby they can ship those to us by freight or motor truck and we have the right to specify which way we want that stuff delivered, and we have always specified motor truck.

Q. What I was trying to get at, Mr. Turner, where are the deepfreezes and refrigerators made that the Inter-[fol. 443] national Harvester Company supplies to its dealers?

A. They are made in— You have kind of got me at that. Cincinnati, Ohio, is it? I forget where it is.

A. This freight is handed to us by rail employees and then it is loaded into our trucks by our employees.

Q. And by the same token, freight tendered to the railroad would be handled by their dock force——

A. That is right.

Q. —is that the way it is handled?

A. That is true.

Mr. Fowler: I believe that is all.

Exam. Carpenter: Any further cross-examination? Any redirect?

Redirect examination.

By Mr. Howland:

Q. Now, in order that we can clear up this rail and truck business, the Rock Island Motor Transit Company [fol. 421] in the Tri-City area does perform a pickup and delivery service not only on shipments tendered to it on motor carrier billing but also picks up and delivers shipments moving on rail billing that are tendered to it by the Rock Island Railroad, is that correct?

A. That is right.

Q. Now the Rock Island Railroad has an agent, local freight agent, at the freight house in Davenport?

A. Yes, sir.

Q. And the Rock Island Motor Transit Company has a terminal agent in Davenport?

A. Yes, sir.

Q. Now, if you get directions from the Rock Island Railroad to pick up a shipment at some point in the Tri-City area, tell us about the physical handling, what your employees do with it and how it is handled.

A. We maintain separate trucks to handle rail pickup and delivery, and we maintain other trucks to handle motor transit billed freight, and we under no circumstances mix the two together.

This freight is picked up on the rail trucks and is unloaded by rail employees at their platform.

Q. They are made at out-of-State points?

A. They are made, I believe it is, in Ohio though. We don't go into that too strong, not too much interest in that angle, where they come from, because we deal directly with the Davenport branch.

Q. Have you had shipments come into your place direct from out-of-State points instead of through the Davenport branch?

A. Oh, yes; maybe not so much the freezers, we have been in that just the last year, but we have had them come in — They are shipped carload lots, as a usual thing, to some distributing point and they may be shipped to Iowa City, Muscatine, Davenport, and then reconsigned to us. Either we have got to go with one of our trucks and pick them up or have them come in— If we can't run in to pick them up, then they can consign them motor freight.

Q. In other words, they may ship a rail carload of freezers or refrigerators into, say, Iowa City?

A. That is right.

Q. And part of that carload is destined to your place——

A. That is right.

Q. —is that right?

A. That is right.

[fol. 444] Q. And then they are relayed or taken from Iowa City or some other point?

A. They can be, and there has been a case where we would have to have done that if there hadn't been an adjoining dealer picked one up for us at Iowa City; we would have had this special one reconsigned by motor freight.

Q. In other words, they do ship in by pool car for dealers in a certain area?

A. That is right.

Q. Now, Mr. Turner, state whether or not the service as rendered by the Rock Island Motor Transit in the past is essential and necessary for the proper conduct of your business at Stockton.

A. Well, we consider it very essential.

Q. Do you know of any service that would take the place of the Rock Island Motor Transit service if it should cease to do business?

A. Well, that would have to be proven. I don't know of

By Mr. Fowler:

Q. At what?

A. At their platform. Then they will distribute it as they see fit.

[fol. 422] By Exam. Carpenter:

Q. When you use the word "we," who are you speaking of, both motor transit and the rail?

A. I mean the motor transit drivers turns this freight over to rail employees at their platform to be billed——

Q. In other words, all pickups are made by the equipment of the Rock Island Motor Transit Company?

A. That is right.

By Mr. Howland:

Q. Now, when the shipment is delivered at the railroad freight house, if it is a shipment moving on rail billing, who handles the billing?

A. The rail.

Q. If the shipment is determined it is going to be handled on rail billing and moves in motor transit truck, what happens to that shipment?

A. We have our dock set up in blocks. These blocks cover each individual town in our operation, and the rail employee places that merchandise into our block and from then on it is handled by our employees.

Q. In other words, the rail employee brings it to the proper destination, that is, if it is Walcott or if it is——

A. That is right.

Q. —Durant, the rail employee brings it and places it there and from then on it is loaded and handled by the motor transit employee?

A. That is right.

[fol. 423] Q. Now, do you solicit any freight for the Rock Island Railroad?

A. No, sir.

Q. Are you under the directions of the Rock Island agent, the railroad agent, there?

A. No, sir.

any and there is no service in operation through our town or even, as far as I know, servicing any place along highway 6 there that would satisfactorily do the job.

Mr. Nolan: You may cross-examine.
Mr. Fowler: No cross-examination.
Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Nolan: Mr. Lamp.

[fol. 445] H. R. LAMP was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Is that name H. R. Lamp?
A. Yes, sir.
Q. Where do you live?
A. Durant.
Q. What is your business?
A. Hardware, hardware and appliances.
Q. And how long have you been in business in Durant?
A. 32 years.
Q. And you have a general line of hardware, do you?
A. That is right.
Q. What appliances?
A. Stoves, refrigerators, bottled gas equipment and bottled gas, and so on.
Q. What is your source of supply of hardware?
A. Chicago, Hibbard, Spencer, Bartlett.
Q. What is your source of supply of home appliances?
A. We get gas stoves from Beaverton, Mich., and from the Odin Stove Company from Odin, Pa.
Q. Now, what are the size of your shipments of hardware ordinarily into Durant?
A. They usually run from 500 to 1,500 pounds, unless we get wire. Of course, a lot of wire out of Chicago some-
[fol. 446] times will run 5 or 6 or 7 thousand pounds. That may be only once a year or so. That comes from Hibbard out of Chicago.

Q. Does the Rock Island Railroad agent solicit any freight on motor carrier billing?

A. No, sir.

Q. Now, if you have a shipment moving on rail billing destined, we'll say, to Wilton or Durant, what does your peddle driver do with that shipment when he gest to destination?

A. At Wilton he makes his delivery direct.

Q. Direct to the consignee?

A. Direct to the consignee.

Q. If it is a C. O. D. shipment, does he make the collection?

A. It is handled by the rail agent.

Q. Does he collect the monty? Who collects the money?

A. The rail agent collects the money. He makes his own collections.

Q. Is that the practice at all of the stations or is there a difference?

A. At our terminal in Davenport——

Q. No; at these——

A. At these small stations?

Q. Yes.

[fol. 424] A. Yes, sir.

Q. Which places is there a difference, and describe the difference?

A. At these small stations merchandise is delivered off the way bill and not the expense bill. At Davenport the bills are expensed.

Q. I don't understand exactly what you mean by being delivered off the way bill and off the expense bill. Just tell us how it is handled, how the shipments are made to Walcott, Durant, Atalissa, and how in any of those places the practice varies from what you have told us about at Wilton.

A. Well, the agent at Wilton makes his collections.

Q. Makes his what?

A. Makes his own collections.

Q. Makes his own collections; all right. What about the other points?

Exam. Carpenter: That is only on C. O. D.'s, is it?

The Witness: That is on freight charges, too.

Q. What is the ordinary size of your appliance shipments?

A. Oh, stoves alone will weigh 5 or 6 hundred pounds. Usually get two or three stoves.

Q. Do you handle deepfreezes?

A. No.

Q. Refrigerators?

A. That's right.

Q. What other type of home appliances?

A. Well, we have got gas heaters, water heaters; electric water heat--s come from Beaverton, too.

Q. What transportation facilities have you been using for these inbound shipments to your place of business?

A. All motor freight.

Q. What company?

A. Rock Island Motor Transit.

Q. And why has it been you have been using the Rock Island Motor Transit Company for these shipments?

A. Never knew of anybody else to give us any service. I have never known of any other truck company bringing us anything besides Rock Island Motor Transit.

Q. Has that been true since the Rock Island Motor Transit Company has been in business?

A. That is right.

[fol. 447] Q. You say you know of no other company that would give the same type of local service?

A. I never had any other company bring anything in that I know of as long as I have been there because we used to have our own local freight line that was absorbed by the Rock Island Motor Transit a number of years ago.

Q. That was what?

A. Sold out to the Rock Island Motor Transit a number of years ago.

Q. Have you ever been solicited by any other motor truck company to handle your business?

A. No, sir.

Q. What would be the effect on your business if the Rock Island Motor Transit Company would be required to cease operating?

Mr. Fowler: Just a moment. Objected to on the ground

By Mr. Howland:

Q. On all freight charges?
A. That is right.
Q. All right. What is the situation at other points?
A. At Davenport, our driver——
Q. No; not at Davenport. These other small points.
A. So far as I know, they are the same.
Q. The practice is the same?
[fol. 425] A. Yes.

By Exam. Carpenter:

Q. In other words, when it is rail-billed freight and moves into one of these small places, the agent of the Rock Island collects the charges regardless of whether they are C. O. D. or not?
A. That is right.

By Mr. Fowler:

Q. Supposing they don't have an agent there; then what happens?
A. They have a collection station.
Q. That collects both motor freight and rail?
A. No. Our drivers collect our own.
Q. They have a freight collection station where they don't have any agent?
A. That is right.

Mr. Howland: I think that is all I have.
Exam. Carpenter: Go ahead.

Re-cross-examination.

By Mr. Fowler:

Q. Let me see if I understand this. I am a shipper in Moline, Ill., so I want to ship 500 pounds of freight out to Atalissa, Iowa.
A. Yes.
Q. So I call up the Rock Island Railroad and I tell them I have got 500 pounds of freight there I went to ship to Atalissa, Iowa, and I prepare a rail bill of lading. I de-

that it is immaterial; for the further reason that no such fact has been established in this record.

Exam. Carpenter: Objection overruled.

A. It would be quite a problem. I don't know how we would get our merchandise in there. It would mean we would have to buy some big trucks and get some of that stuff or find some other source, I suppose.

Q. Do you know of any other source at the present time?

A. I would not now.

Mr. Nolan: You may cross-examine.

[fol. 448] Mr. Fowler: No cross-examination.

Exam. Carpenter: No cross-examination. You are excused.

(Witness excused.)

Harold C. Woodard was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you state your name, place of residence, and occupation, Mr. Woodard?

A. Harold C. Woodard, traffic manager, Traffic Bureau of East Moline, Moline, and Rock Island, Incorporated.

Q. Now, how long have you been so engaged, Mr. Woodard?

A. Three years.

Q. What experience have you had in the transportation field, in traffic work?

A. About 37 years.

Q. 37 years. Would you just briefly state for the record what that experience consists of?

A. Chief rate clerk for the North Western Railway at Cedar Rapids 10 years, 15 years at Clinton, Iowa.

Q. What were you doing at Clinton?

A. Rate clerk. Six years as general traffic manager, Pillsbury Mills.

Q. Where was that?

liver it to a railroad pickup truck, is that correct?
[fol. 426] A. That is right.

Q. The railroad pickup truck takes it to your terminal, to the door marked "Atalissa" and unloads it there, substantially so, is that correct?

A. Well, Moline is a different set-up. The rail freight is picked up and taken to Moline station and is handled by Rock Island Railroad employees at that station.

Exam. Carpenter: Let's get back to a station, Mr. Fowler, where we can come through Davenport and find out what——

Mr. Nolan: That is all right; why don't you follow that on through?

By Mr. Fowler:

Q. In other words, that 500 pounds of rail-billed freight finally gets into your truck going to Atalissa the next morning?

A. That is right.

Q. Now, I am the same shipper. I call you up and say, "I have got 500 pounds going to Atalissa," but I call up the Rock Island Motor Transit this time instead of the Rock Island Railroad. I prepare a bill of lading on the Rock Island Motor Transit and call it. Your Motor Transit pick-up truck goes over and gets the shipment——

A. That is right.

Q. —brings it to the Davenport terminal, I assume——

A. That is right.

Q. —and that is put on the same truck going to Atalissa [fol. 427] the next morning?

A. That is right.

Q. In one situation that 500 pounds is riding under truck billing and in the next situation it is riding under rail billing?

A. That is right.

Mr. Fowler: I see.

Exam. Carpenter: And you have no jurisdiction over the truck that picks up the rail-billed freight, is that correct or not?

The Witness: We dispatch them and that is all.

A. Clinton, Iowa. That is the feed and soy division.

Q. Then with the Traffic Bureau there at Moline and East [fol. 449] Moline, Silvis, and what other point?

A. East Moline, Moline, Rock Island.

Q. Oh, Rock Island. Then you represent the shipping interests through your association of the Tri Cities east of the river, is that right?

A. That is right.

Q. Now, what is the general population of the Quad-City area, excluding Davenport and other points or towns west of the river, Mr. Woodard?

A. I would say around a hundred thousand.

Q. What organizations comprise your bureau? You don't have to give us the name and number of each one, but in general the nature of their business and the number of your members.

A. I have 68 members.

Q. What industries do they represent, generally?

A. They represent practically all of the industries.

Q. I know, but what general type of industry—I will put it that way—do they represent?

A. Machinery, rubber boots and shoes; candy.

Q. In addition to the so-called large implement companies such as Deere, International, companies of that character, do you have smaller implement companies making parts and different kinds of farm implements and tools in the Tri-City area?

A. Not that I know of.

Q. Now, Mr. Woodard, are you speaking here on behalf [fol. 450] of the bureau which you are traffic manager of?

A. I am; yes.

Q. Have you been authorized to attend this hearing on behalf of your bureau?

A. Oh, yes.

Q. You are familiar, are you not, with the general scope of the application here and the territory involved?

A. Yes.

Q. Would you tell, Mr. Woodard, for the examiner and those present what interest your members have in this particular hearing?

A. Well, my members would like to get service to all these points.

Mr. Fowler: They dispatch them. In other words, they tell them where there is a shipment to be picked up, I assume.

Exam. Carpenter: Off the record.

(Discussion off the record.)

By Mr. Fowler:

Q. To clean up the record, this particular foundry has found some other carrier to handle its stuff for it and you don't get any of it now?

A. That is right.

Exam. Carpenter: All right, thank you.

Mr. Nolan: Let's straighten that record out there.

Redirect Examination.

By Mr. Howland:

Q. Mr. Hughes, is the ~~Rock~~ Island Motor Transit Company handling these aluminum shipments of less than 5,000 pounds for the Durant foundry company at the present time?

A. I talked to the gentleman at Durant and he gets them [fol. 428] strictly truckload. There have been occasions.

Q. The aluminum pigs?

A. That is right, but there are shipments outbound from Durant we still get.

Q. Outbound shipments?

A. That is right.

By Exam. Carpenter:

Q. Are they pigs?

A. No; they are castings, aluminum castings.

Exam. Carpenter: Any further cross-examination? You are excused.

(Witness excused.)

Exam. Carpenter: We will recess for lunch until 1:45.

(At 12:15 p.m., a recess was taken until 1:45 p.m. of the same day.)

Q. And what points in particular do you have reference to?

A. Well, the main points are those served by the Rock Island Motor Transit Company who are not served by any other truck line.

Q. Does that include the territory from Rock Island to Omaha, Nebr.?

A. Yes.

Q. And the side points off of No. 6, is that correct?

A. That is right.

Q. I will ask you, Mr. Woodard, if there is a normal flow of traffic from the towns which your traffic bureau serves into the Iowa territory served by the Rock Island [fol. 451] Motor Transit Company.

A. Oh, yes.

Q. And is that a daily flow——

A. Yes.

Q. —you might say?

A. Yes.

Q. Have you made an investigation of the carriers serving that territory other than the Rock Island Motor Transit Company?

A. I have not.

Q. I mean, have you made——

By Mr. Ludden:

Q. What was that answer?

A. "I have not."

By Mr. Nolan:

Q. Are you familiar with the operations of the motor carriers in operating through the territory served by the Rock Island Motor Transit Company?

A. Say that again, please.

Exam. Carpenter: Read the question.

(Question read.)

By Mr. Nolan:

Q. I mean of their general operation.

AFTERNOON SESSION.

1:45 p.m.

Mr. Howland: If the examiner please, I would like the record to show that at this time counsel for applicant is tendering and delivering to counsel for protestants copies of exhibits 5, 6 and 7.

Exam. Carpenter: The record will so show.

LESTER CRUMLY was sworn and testified as follows:

Direct Examination.

By Mr. Nolan:

Q. You are Mr. Lester Crumly?

[fol. 429] A. That is right.

Q. You live at Stockton, Iowa?

A. I live in Wilton Junction.

Q. What business are you in?

A. Foundry business.

Q. Where is your foundry?

A. In Stockton, Iowa.

Q. How long have you been in that business?

A. Three years.

Q. What is the nature of the products made by your foundry?

A. It is grey iron castings used in all types of industry.

Q. Where do you get your raw supplies for that?

A. Well, some of it comes out of Duluth, Minn., our raw iron does. Some from Milwaukee. It is from all over.

Q. And what inbound interstate shipments do you have coming into the plant at Stockton?

A. Well, Like I say, our pig iron and coke.

Q. Does that come in carload quantities or less?

A. No; we don't buy carload quantity because we are not of a size to warrant that kind of an inventory so we purchase more on the 2-ton and 3-ton delivery, stuff like that.

Q. How do those inbound shipments come in, by rail, by truck, or just how?

A. Oh, I would say 90 percent of them by truck and once in a great while we will have a car.

Exam. Carpenter: Do you understand the question?
The Witness: Could you phrase that a little different?

By Mr. Nolan:

Q. Are you familiar with the truck operations, say, of the so-called overhead carriers, motor truck operators operating between the Tri Cities, Des Moines, and Omaha? Do you know who they are and what their general operations are?

[fol. 452] A. No.

Q. Well, I will put it this way: Do you know of any carrier offering a local peddler service west from Davenport along U. S. highway No. 6 other than the Rock Island Motor Transit?

A. I have had none call on me.

Q. Have you had occasion to determine whether or not there are any carriers that give a local peddler service along there other than the Rock Island Motor Transit Company? Have you had occasion, had any inquiry from your shippers?

A. Oh, yes, yes, yes.

Q. Have you made inquiry as to whether or not there are any other carriers?

A. Yes; I have.

Q. What was the results of those inquiries made by you as to whether or not there were carriers, any other carriers, serving the so-called small towns?

A. When I called these transportation companies, they didn't want to handle it.

Q. You have had that experience?

A. Yes.

Q. What companies did you call and found they didn't want to handle such shipments.

A. Well, there has been various carriers who have done that.

Q. Well, can you name some of them, or would you rather not?

A. I would rather not.

[fol. 453] Q. Now, Mr. Woodard, state whether or not the cessation of operation by the Rock Island Motor Transit Company in the Iowa territory, particularly between the

Tri Cities and Omaha, and the off-route points served by the Rock Island Motor Transit, would have an adverse effect upon the companies represented by you in the Tri Cities east of the river.

Mr. Fowler: Just a minute. That is objected to as immaterial; for the further reason that it is assuming facts not established in this record; for the further reason that it calls for an incompetent conclusion and opinion of the witness.

Exam. Carpenter: Objection overruled.

The Witness: Would you repeat that again?

Exam. Carpenter: Read the question.

(Question read.)

A. It certainly would.

By Mr. Nolan:

Q. Would you just state in what way?

Mr. Fowler: Same objection.

Exam. Carpenter: Same ruling.

A. Well, they wouldn't have the service. They would either have to ship by rail—and it would be weekly service or tri-weekly.

By Mr. Nolan:

Q. With what regularity would you say your customers, clients, require service from Moline, East Moline, Rock Island, and Silvis into the Iowa territory involved in this case?

[fol. 454] A. Daily.

Q. Now, Mr. Woodard, these 68 members that make up your bureau, are they all large shippers or some of them are what you might call small shippers?

A. Well, I have the largest.

Q. What did you say?

A. I have the largest.

Q. Do you have some of the smallest?

A. I have the smallest, too.

Q. Do you represent in your bureau—I mean is your

bureau a representative of the implement companies or farm machine companies there, or do they have their own?

A. They all belong to the Traffic Bureau.

Q. But they also have their own traffic departments, is that right?

A. That is right.

Q. Now, you understand do you not, that the Rock Island Motor Transit Company is presently operating under a 5,000-pound limitation?

A. Yes.

Q. And what effect does that have upon the ability of your customers to get shipments into the Iowa territory?

A. Well, they have to split them up if they run over 5,000 pounds.

Q. Have they been required to do that in order to get [fol. 455] service to destination?

A. Yes.

Q. Are you familiar with that fact?

A. Yes.

Q. State whether or not in your opinion, from your experience in the transportation field, if there is a need for a greater volume of service by the Rock Island Motor Transit Company in this particular territory.

Mr. Fowler: That is objected to as immaterial and calling for an incompetent conclusion of this witness.

Exam. Carpenter: He may give his opinion.

Mr. Nolan: You may answer.

The Witness: Repeat the question.

Exam. Carpenter: Read the question.

(Question read.)

A. Oh, yes.

By Mr. Nolan:

Q. What I mean by volume, I mean authority to handle larger shipments than 5,000 pounds.

A. That was my understanding.

Exam. Carpenter: Did you say something, Mr. Fowler?

Mr. Fowler: I object to it for the same reason.

Exam. Carpenter: Objection overruled.

By Mr. Fowler:

Q. You live at Durant?
A. That's right.
Q. And your company is located——
A. At Stockton.
Q. At Stockton. What is the name of the company?
A. Farmers Cooperative Elevator Company.

Mr. Fowler: Thank you.

By Mr. Nolan:

Q. How long have you been connected with the elevator company there?
A. 15 years.
[fol. 436] Q. Now, do you buy and sell grain, soybeans, and things of that character?
A. Yes. We are in the general elevator and feed business; also other lines, too.
Q. All right, now, so far as your merchandising of anything, what merchandise does your company handle?
A. We handle a full line, practically a full line, International Harvester in farm equipment, also hardware, fencing, feed, seed, posts, wire, practically everything but groceries and clothing.
Q. Now, is it fair to say that your outbound shipments are in carload quantities?
A. Yes. What outbound shipments there are. There hasn't been practically any outbound shipments in the last few years because we are primarily in an importing section. In other words, we don't ship scarcely any grain or anything out at all.
Q. The grain raised around there is mostly fed in that area, is that right?
A. That is right.
Q. How about soybeans?
A. Soybeans, well, that would be in any quantity for the last few years; we have been transporting them by truck to local storage located close to us there, and we haven't done any shipping of those because we have trucked that. We operate trucks of our own for that, and we have been transporting our beans out in that way.

[fol. 437] Q. Now, on your inbound shipments, where do they generally come from, what point?

A. Well, International Harvester shipments may originate at any one of their plants, and that is Louisville, Ky., Chicago, the Albany plant, the various plants anywhere over the eastern part of the country there although, of course, the tractors, the larger tractors, they come out of Rock Island and they are transported direct from the factory. We pick those up direct, but most of the other shipments are either direct from the branch house or come by freight from the different plants, whatever plant they originate from.

Q. When you speak about by freight, do you mean rail car freight or motor truck freight?

A. I mean truck is always specified if possible because it is much more convenient.

Q. Where do you get your hardware supply?

A. Hardware, the main companies are Harper-McIntire, Cedar Rapids, Haw Hardware of Ottumwa, and we have some stuff out of Des Moines, from Consumer's Cooperative here. That comes usually in by truck, too.

Q. How about any out-of-State points as points of origin for hardware?

A. Out-of-State origin. Well, there isn't at the present time a whole lot that we get out of the State other than the International Harvester products.

[fol. 438] Q. You handle paints or seeds or anything like that?

A. We handle those seeds, but those come from Standard Seed Company and Sexauer Seed Company here in Des Moines or Standard's branch house at Davenport. Paints, we don't handle paints in any volume at all, so that is——

Q. Then, as I understand your testimony, you are dependent mostly for out-of-State supply of your farm implements?

A. That is right.

Q. In addition to handling International Harvester implements, do you handle any other type of farm tools?

A. We buy some of Hamilton, Cedar Rapids, and Biltmire Manufacturing at Manning, Iowa, and also of McCullough at Webster City. Mostly all that is——

Q. How does a 500-pound shipment now move from Moline to Atalissa, Iowa, over the Rock Island?

A. Well, I am not sure about that. I would have to have my guide on that.

[fol. 461] Q. You don't know what the service is now?

A. No.

Q. You don't know what it is going to be in the event this application is granted?

A. I do not.

Mr. Fowler: That is all.

Mr. Nolan: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

L. L. Cole was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, please?

A. My name is L. L. Cole.

Q. And your home is where, Mr. Cole?

A. In Des Moines, Iowa.

Q. Your age is what?

A. 39.

Q. And what is the position which you hold with the Rock Island Motor Transit Company at the present time?

A. I hold position of auditor.

Q. Speak a little louder, Mr. Cole, please, in making responses to the questions.

What experience have you had in accounting work, Mr. Cole?

A. I have been employed in motor carrier accounting work since 1934.

[fol. 462] Q. In what capacities and by what concern?

A. I was employed with the Santa Fe Trail Transportation Company in Wichita, Kansas., 1934 to 1939, came with the Rock Island Motor Transit Company June 1, 1939.

Q. You have been continuously employed in Des Moines with the Rock Island Motor Transit Company since that date?

A. That is correct.

Q. Are you a certified public accountant?

A. No, sir.

Q. You are familiar with the principles of accounting and particularly as applied in the motor carrier field?

A. That is right.

Q. Now, Mr. Cole, you have made certain accounting studies in connection with the operations of the Rock Island Motor Transit Company and certain other selected carriers in this Midwest territory which you have placed in graph form, have you not?

A. I have.

Q. Will you produce those, please?

Mr. Howland: We will make this as Exhibit 8.

(The document referred to was marked as "Applicant's Exhibit No. 8, Witness Cole," for identification.)

By Mr. Howland:

Q. Now, Mr. Cole, directing your attention to the paper which has been marked for identification by our reporter [fol. 463] as applicant's Exhibit No. 8, I notice that that consists of a series of graphs or lines and it is headed, "Tons Transported in Inter-City Service." Was this document prepared by you?

A. It was.

Q. The first line, I observe, is a black line and it moves in a general direction of from left to right on the sheet, and at various points along the course of it there are various figures shown. What is shown by that upper black line?

A. That line indicates at the various stages the aggregate tonnage hauled by motor carriers listed on the graph during each of the years indicated by the graph.

Q. In other words, the years are shown by the figures 1944, 1945, and so forth, concluding with the year 1950?

A. That is right.

Q. Now, the source of the information that is shown on

Q. Were you aware that Merchants Motor Freight has extended its operations within the last 2 years over what they were in 1946? Did you know that or give any influence to that in developing your exhibit?

A. No; I didn't.

Q. You are aware, of course, that the Ringsby Truck Line, Inc., for instances, does 99 percent of its business outside of the territory that is involved in this application, are you not?

A. No; I am not.

Q. What was the purpose of selecting these nine carriers you have listed on exhibit 8 for the purpose of this exhibit?

A. We felt that they were representative carriers in this territory.

Q. Well, Merchants Motor Freight is principally a north-and-south operation, is it not?

[fol. 470] A. Well, I really don't know about the operations of these individual companies.

Q. Ringsby is principally a Chicago-to-Denver operator, aren't they, and on out to the coast?

A. They interline with us.

Q. Watson is an operation extending from Chicago to Los Angeles, is it not, or were you aware of that?

A. No; I wasn't.

Q. Then all that your exhibit No. 9 shows—and I have particular reference now to your black line—the figure 1,852,540 represents millions of tons?

A. That is 1,852,540 tons.

Q. 1 million—

A. 1,852,540 tons.

Q. You mean that these eight carriers in 1950 collectively only handled 1,852,540 tons of freight?

A. That is correct.

Q. As shown by their reports on file with the Commerce Commission?

A. That is correct.

Q. Now in what respect are those eight carriers comparable with Rock Island Motor Transit Company?

A. They all operate across the general lines of this application. That is my understanding.

Q. Well, there are a lot of other carriers that operate [fol. 471] across here. Why didn't you include them?

A. We picked what we thought were representative carriers.

Q. That is it. You don't claim to know the influences that were responsible either for decreases or increases in tons of freight billed by any of these carriers in any one of these years?

A. We just took their annual reports.

Q. Please answer my question.

Exam. Carpenter: Read the question, please.

(Question read.)

A. I do not.

By Mr. Fowler:

Q. Now, the red line, according to the legend on the exhibit, is supposed to depict the consolidated CRI&P l. c. l. traffic and the Rock Island Motor Transit motor-billed freight. Now, is that for the whole railroad system?

A. That is right.

Q. And for the whole Rock Island Motor Transit system?

A. That is correct.

Q. Supposing that the Rock Island Motor Transit would increase in tons and the Rock Island Railroad would decrease in tons of l. c. l, traffic, that would have a result of showing a declining curve, wouldn't it?

A. Would you repeat the question?

Exam. Carpenter: Read the question.

(Question read.)

[fol. 472] A. Which line are you referring to?

By Mr. Fowler:

Q. The red line.

A. It depends upon the extent of the increase and the decrease.

Q. But I am supposing that the Rock Island Railroad lost a million tons of l. c. l. traffic in a year.

Mr. Howland: We don't have that much.

Mr. Nolan: You may cross-examine.

Cross-examination.

By Mr. Fowler:

Q. Mr. Woodard, you don't claim to have any personal [fol. 456] knowledge of these shipments that your members actually transported?

A. I audit the freight bills and I see those.

Q. Other than that, you don't claim to have any personal knowledge——

A. No.

Q. —of this situation.

Exam. Carpenter: Pardon me a minute. Mr. Reporter, read that question, please.

(Question read.)

Mr. Fowler: "Actually shipped" is better.

By Mr. Fowler:

Q. Now, what points are there on U. S. highway No. 6 that you are having difficulty getting service to?

A. On highway 6?

Q. Yes.

A. That I am having difficulty?

Q. Yes. You are here, as I understand it, contending that you don't have any service to certain points on U. S. highway 6 out of the Tri Cities, is that what you are here for?

A. I didn't say that.

Q. All right, I misunderstood you then. What did you say?

A. I said that I was here for the reason that I wanted my shippers to receive adequate transportation to all points covered by the Rock Island Motor Transit Company.

Q. That is what you are here for?

[fol. 457] A. Yes.

Mr. Fowler: That is all.

Exam. Carpenter: Any further cross-examination? Any redirect?

Redirect examination.

By Mr. Nolan:

Q. By the way, Mr. Woodard, are you familiar in a general way with the type and character of service provided by the Rock Island Motor Transit Company to the territory served by it west of Davenport?

A. Yes.

Q. And state whether or not, from your work with the Traffic Bureau and the members of your bureau, if that service has been satisfactory in the past.

A. It has.

Q. With the exception of limitation on the size of shipments handled?

Mr. Fowler: Of course, that is objected to as leading.

Exam. Carpenter: It is a leading question. Objection sustained.

By Mr. Nolan:

Q. I will put it this way: With the limit of the size of shipment, is that service satisfactory, considering only the limitation in size of shipment?

A. I would say no.

Q. But so far as the service that they are authorized to render, that type of business and that type of service, has that been satisfactory?

[fol. 458] A. Yes.

Mr. Nolan: That is all.

Recross-examination.

By Mr. Rosenbaum:

Q. Did you support the application when Rock Island asked for that 5,000-pound restriction?

A. Did I support it?

Q. Weren't you here supporting that application when they asked for the 5,000-pound restriction?

A. Yes, sir.

Mr. Rosenbaum: That is all.

Exam. Carpenter: Any further cross-examination?
Mr. Fowler: Yes.

By Mr. Fowler:

Q. Now, since the 1st of January 1952, what instance do you have personal knowledge of where anybody had a shipment of 5,000 pounds or over moving out to any point on U. S. highway 6 that they were unable to get some transportation service to handle?

A. I have none.

Q. And as far as you know, all of the members of your association that have occasion to make shipments to points on U. S. highway 6 in interstate commerce are being taken care of?

A. To my knowledge; yes.

Mr. Fowler: That is all.

Redirect examination.

[fol. 459] By Mr. Nolan:

Q. Now, Mr. Woodard, you told me just a few minutes ago you had had complaints made to you that your shippers had to split up their shipments in order to stay within the 5,000 pounds. Have you had such complaints?

Mr. Fowler: Just a minute. I want to object to that as leading and repetitious.

Exam. Carpenter: Objection overruled.

A. He said from the first of the year.

By Mr. Nolan:

Q. What?

A. He said from the first of the year.

Q. Don't pay any attention to what he said.

A. I don't have any knowledge of any since the first of the year.

Q. How about before the first of the year?

A. Yes.

Q. Are you able to give us any names of the companies who have so complained to you, if you recall?

A. I wouldn't recall that. There are so many of them call up I don't pay any attention to who they are, just give them an answer over the telephone and that is it.

Q. Did that occur more than once before the first of the year?

A. Oh, yes, sir.

Q. How many times would you say?

A. Probably half a dozen times before the first of the year.

Q. And that came to you in the regular course of your [fol. 460] duties as manager of the Traffic Bureau; is that right?

A. That is right; yes.

Mr. Nolan: That is all.

Recross-examination.

By Mr. Fowler:

Q. Now, Mr. Woodard, let's assume a typical shipment of 500 pounds from one of your shippers in Moline which is going to Atalissa, Iowa.

A. Yes.

Q. What is the difference in the service that you obtain from the Rock Island Railroad under the permanent authority which it holds as distinguished from the service you are going to have in the event this application is granted?

A. Repeat that again.

Exam. Carpenter: Read the question.

(Question read.)

Exam. Carpenter: Just a minute. Off the record.

(Discussion off the record.)

A. Well, we would have to get another carrier, that is all.

By Mr. Fowler:

Q. Is that the only answer you can give me to that question?

A. Yes.

the document marked for identification as exhibit No. 8 was what?

A. Would you tell me which line you are referring to?

Q. For that black line?

A. The black line, the information was secured from copies of annual reports of those carriers that are on file with the Iowa Commerce Commission.

Q. Here in the Iowa Commerce Commission office in Des Moines?

A. That is right.

Q. And those reports on file with the Iowa Commerce [fol. 464] Commission, constitute a public record, do they not?

A. That is correct.

Q. Now, I notice that these figures, 1944, 1945, and 1946, and so forth, what is shown by those figures; that is, how do you get the years? Is that a year-end proposition or just explain how that tabulation at the bottom operates to show the years.

A. Each of the carriers are required to file an annual report covering their activities for the year just passed. From those reports during each of the years listed, we have obtained this information.

Q. Well, what I wanted particular was, for instance, at the bottom you show 1944 immediately to the right of a certain vertical line; is that the end of the year 1944 or the beginning or what?

A. That indicates that that vertical line above 1944 is used as an index whereupon we have placed our lines resulting from the tabulation of the tonnage carried by these various trucking companies.

Q. But what I want to get at, Mr. Cole, is that at the right of each of these columns you have a figure, 1944, 1945, 1946, 1947, 1948, 1949, and 1950; now, do those figures represent the year-end of the year designated?

A. That is correct.

Q. Yes. So as I understand it, the document marked for identification as exhibit No. 8, the latest information that [fol. 465] appears here is as of the year-end of the year 1950?

A. That is correct.

Q. Now, the companies whose tonnage is included in the black line on the document marked for identification as exhibit No. 8 are listed on the right-hand side of the sheet?

A. That is correct.

Q. And the figure which entered into this composite graph was the composite of the figures as reported by those companies in the reports filed with the Iowa State Commerce Commission?

A. That is right.

Q. Now, what is the significance of the red line, which is the second line from the top on this graph?

A. The red line indicates the volume of tonnage handled by the CRI&P railroad, l. c. l. traffic, and the Rock Island Motor Transit Company motor-billed freight.

Q. L. c. l. traffic, you said, consolidated CRI&P railroad l. c. l. traffic; in what territory is that figure taken from?

A. That is our system figure.

Q. The system figure for the Rock Island Railroad?

A. That is right.

Q. And that includes also as a composite figure the Rock Island Railroad system l. c. l. traffic and the Rock Island Motor Transit motor carrier freight?

A. That is correct.

Q. So, as a matter of fact, beginning at the left-hand [fol. 466] side of the graph, the tonnage of the Rock Island Railroad system l. c. l. freight and the Rock Island Motor Transit shows at the end of 1946 a high figure of 748,260 tons and a decline to a figure of 423,960 tons at the year-end of 1950?

A. That is right.

Q. Whereas, these selected truck lines show a tonnage commencing at 755,000 tons in 1944 and increasing to 1,852,540 tons at the year-end of 1950?

A. That is right.

Mr. Rosenbaum: Is that in the territory here in question, covered by this application, or is this the over-all operation?

Mr. Howland: Yes; certainly. These truck lines that are listed, I will go into that; I will show that.

Mr. Rosenbaum: I'm sorry.

By Mr. Howland:

Q. These truck lines which are listed here are truck lines operating in this general territory, including those having authority to operate on U. S. highway 6?

A. That is right.

Q. Of course, in filing their reports with the Iowa State Commerce Commission, these truck lines don't list the volume of the tonnage handled on highway 6 separately from tonnage handled over the balance of their system, do they?

A. They do not.

Q. So that you have taken the total tonnage of these carriers as shown by the report and used that as the figure for the purpose of making this graph?

[fol. 467] A. That is right.

Q. But those motor carriers which are there shown are regular-route operators, all of them having authority to operate on U. S. highway 6?

A. That is my understanding.

Q. Now, you have a figure in blue on the graph marked for identification as Exhibit No. 8, just below the red figure, which is quite closely parallel with it, and that, I notice, shows from 1944 a tonnage of 496,479 and a tonnage of 264,612 with the year-end 1950; what is shown by that blue line?

A. The blue line represents the Chicago, Rock Island and Pacific l. c. l. freight.

Q. And is that the system figure?

A. That is our system figure.

Q. In all territories served by the Rock Island Railroad?

A. That is correct.

Q. That is not limited, of course, to the territory involved in this particular area?

A. That is right.

Q. Now, you have at the bottom of the sheet marked for identification as exhibit No. 8 a green line which shows a variation beginning with 112,468 and a drop to 97,697 and thence a gradual increase to 159,348 at the year-end of 1950; what is indicated by that green line on the exhibit marked for identification as Exhibit 8?

[fol. 468] A. That line represents the Rock Island Motor Transit Company motor-billed freight.

Q. That would be the traffic of the Rock Island Motor Transit Company as a system figure moving on motor carrier billing?

A. That is correct.

Q. Is there anything further that you wish to offer in explanation of the graph marked for identification as exhibit No. 8?

A. I believe not.

OFFER IN EVIDENCE

Mr. Howland: At this time we offer and introduce in evidence the graph heretofore marked for identification as exhibit No. 8 and now offered as exhibit No. 8.

Mr. Fowler: Do you want me to examine on this exhibit now or reserve my cross-examination until his direct testimony is concluded?

Exam. Carpenter: Whichever you prefer.

Mr. Fowler: We might as well take these exhibits one at a time.

Mr. Howland: That is all right.

By Mr. Fowler:

Q. As I understand it, you selected a group of carriers you have listed on your exhibit No. 8 for the purposes of developing this exhibit?

A. That is correct.

Q. And the figures that you have used were taken from the annual reports filed by these carriers with the Iowa State Commerce Commission?

[fol. 469] A. That is correct.

Q. And you don't have any knowledge of the changes in the scope of operations of these various carriers from the year 1944 to 1950, do you?

A. I do not.

Q. For instance, you may or may not be advised that the Bos Truck Line, Inc., have extended their operations quite substantially since 1945 in other areas.

A. I would have no knowledge of that in my business.

By Mr. Fowler:

Q. And the Rock Island Motor Transit Company gained back 500,000 of it, the curve would still go down, wouldn't it?

A. There was a net deficit there; yes.

Q. What is the purpose of hooking together the l. c. l. railroad traffic and then taking all of the Rock Island Motor Transit Company, both truckload and l. t. l.?

Mr. Howland: That is objected to as purely argumentative and not proper cross-examination. If he is going to have an argument in this case, I think I can demonstrate the object and purpose, but I don't believe it is proper cross-examination.

Mr. Fowler: Now, if you will listen to my question, I don't believe you will say it is argumentative.

Exam. Carpenter: I will overrule the objection.

Mr. Fowler: Now, read the question.

(Question read.)

A. You have got me confused. I would like to have it again.

Exam. Carpenter: Read the question again.

(Question re-read.)

[fol. 473] A. It is my opinion that the CRI&P l. t. l. traffic——

Exam. Carpenter: L. c. l.

A. —l. c. l. traffic is comparable to the motor-billed freight of the Rock Island Motor Transit Company.

By Mr. Fowler:

Q. That is the reason you have shown it on this exhibit?

A. That is right.

Q. Now, on the exhibit you have got a green line down at the bottom which apparently is supposed to show the Rock Island Motor Transit motor-billed freight in 1944 to 1950.

A. That is right.

Q. Throughout its system?

A. That is correct.

Q. And that has no direct relation to the stations that are involved in this particular application?

A. Only that they are involved in it.

Q. I mean you haven't undertaken to make any separation?

A. No.

Q. Did you, in connection with the development of the material which you used in preparing this exhibit 8, did you make an analysis of your station records at points involved in this application to determine whether or not your tons handled had not increased substantially in the last three or four years?

A. We will offer an exhibit——

Q. You have prepared such an exhibit?

[fol. 474] A. —covering the last——

Q. Related to these stations?

A. Not for this same period of time, however.

Q. But related to these stations we are talking about in this application?

A. Yes, sir.

Mr. Fowler: Well, the exhibit is objected to for the reason that it is immaterial, for the reason that it does not have any bearing on any issue involved in this proceeding, for the reason that the figures there shown could not possibly be analyzed and adjusted to prove anything in connection with the matters which are before the Commission in this hearing.

Mr. Ludden: We join in that objection.

Mr. Howland: Obviously, if the examiner please, no comparison is possible of the direct tonnage involved in the particular routes and over the particular territory. The objection manifestly goes to the weight to be accorded to the exhibit rather than to its admissibility as such, and I submit that the proper foundation has been laid for the introduction of the exhibit for the purposes of comparison of the volume of traffic transported by the agencies shown.

Now, the examiner knows and the record shows that carriers in making their reports do not break down the traffic over any particular highway or over any particular route.

The exhibit is offered for the purpose of showing that the [fol. 475] tonnage billed by Rock Island Motor Transit Company has not shown a comparable increase with the volume of business of other motor carriers operating in the territory and some of whom are objectors and protestants in this proceeding.

Mr. Fowler: I want to add one further basis for my objection. It is hearsay and that there has been no underlying data developed from which you could determine the value of the information which is attempted to be shown on the exhibit 8.

Exam. Carpenter: The objection is overruled. The document is received in evidence as exhibit No. 8.

(Applicant's Exhibit No. 8, Witness Cole, was received in evidence.)

Mr. Howland: I want to ask one or two questions for the purpose of showing, further developing the information which was contained on exhibit No. 8.

By Mr. Howland:

Q. Do you have the data with you on which Exhibit No. 8 was made up, a memo of the tonnage figures?

A. Yes; I do have.

Q. Take Des Moines Transportation Company, Inc., what was the tonnage of Des Moines Transportation Company at the inception of the period covered by the graph, exhibit No. 8?

Exam. Carpenter: That is by the black line; I take it.

Mr. Howland: Yes.

A. 1944, Des Moines Transportation Company hauled 49,871 tons.

By Mr. Howland:

Q. What did they haul at the end of 1950?

[fol. 476] A. 178,540 tons.

Q. All right. What about Merchants Motor Freight?

A. 1944——

Q. Just a minute. Now, with those figures in mind, is it

not true that Des Moines Transportation Company has shown an increase in the tonnage handled in the period covered by the graph, exhibit 8, approximately the same as that shown by the composite figure of the carriers named for the years in question? In other words, 49,000-plus tons to 178,000, whereas the composite figure for all carriers is 755,000 to a total of 1,852,000?

A. Percentage-wise, Des Moines Transportation Company increased to a greater extent.

Q. To a greater extent than the composite figure?

A. That is correct.

Mr. Nolan: This is off the record.

Exam. Carpenter: Off the record.

(Discussion off the record.)

By Mr. Howland:

Q. Now, what about the Iowa-Nebraska Transportation Company?

A. Do you want the tonnage figure?

Q. The tonnage figure at the beginning and the end.

A. In 1944, 15,421 tons; in 1950, 43,678 tons.

Q. How about Western Transportation Company?

A. 1944 was 61,667 and 1950 165,668.

Q. And Merchants Motor Freight? I don't believe we [fol. 477] have that. I mean it isn't in the record here.

Exam. Carpenter: No; it isn't.

By Mr. Howland:

Q. Will you give that?

A. 1944 was 127,635 tons; in 1950 it was 277,443 tons.

Mr. Howland: That is all I wish to offer at this time with respect to this exhibit.

Exam. Carpenter: Any further cross-examination?

We will take a 5-minute recess.

(Short recess.)

(Witness withdrawn)

KEITH CECIL was sworn and testified as follows:

Direct Examination.

By Mr. Nolan:

Q. Will you please state your name, place of residence, and occupation, Mr. Cecil?

A. Keith Cecil, general manager, secretary-treasurer of Central Transfer Company, an Illinois corporation, Brimfield, Ill.

Q. State whether or not the Central Transfer Company is engaged in the handling of freight by motor vehicle in interstate and foreign commerce?

A. We are.

Q. Does your company hold authority from the Interstate Commerce Commission for that purpose?

A. Yes, sir.

By Mr. Rosenbaum:

Q. Do you have your docket number, sir?

[fol. 478] A. MC 60393.

Q. Any subs?

A. I think they run to 8, No. 8, I think, is the last one.

By Mr. Nolan:

Q. Describe briefly for the record, Mr. Cecil, the general scope of the operation of your company, what points it serves.

A. We operate from Bloomington, Ill., to the Tri Cities, serving all intermediate points, some 80 points. I have in my briefcase some maps of our operation.

Q. Just generally outline the general—

A. Galesburg, Monmouth, Kewanee, Tri Cities, Peoria, Bloomington, are our major points.

Q. Do you operate outside the State of Illinois?

A. Yes, sir; into Davenport, Iowa.

Q. And any other States or territory?

A. We hold authority in the State of Wisconsin.

Q. Now, how many pieces of equipment does your company operate?

A. 59.

Q. How many people are there on its payroll?

A. 43.

Q. How long has your company been so engaged?

A. Incorporated in 1931. We have been in business since 1928.

Q. Now, state whether or not your company has shipments originating on its line for destination to points in Iowa.

A. We do.

[fol. 479] Q. How long have you been with the company?

A. Since 1928.

Q. And state whether or not you are familiar with the flow of traffic originating on your system for points destined on the Rock Island Motor Transit Company in Iowa.

A. I am.

Q. State whether or not there is a regular flow of that type of traffic.

A. There is.

Q. Do you have any figures, Mr. Cecil, in regard to the volume of that traffic?

A. I have here some figures for the month of December 1950, before Rock Island had any restrictions placed upon them.

Q. Do you have any typical shipment point of origin and destination in those figures?

A. Yes, sir.

Q. Will you produce that for us, please?

A. Yes, sir. These bills are copies of bills that I made that are on file in our office at Peoria and they can be used and kept as evidence if you so wish.

Q. Do you have an outline or an abstract of the number of shipments and the volume involved?

A. Yes; I have.

Q. Would you give us that information?

A. Yes, sir. On shipments of 5,000 pounds and over—[fol. 480] this is for the month of December 1950—shipments of 5,000 pounds and over, we had 8 shipments. The weight of those shipments was 354,610 pounds.

Q. Were those shipments originated on your line and interlined with the Rock Island Motor Transit at Davenport?

A. I believe all of those are. In the general sense, they are from both ways. They are between.

Q. Between the two companies?

A. Yes.

Q. Interlined at Davenport?

A. Yes.

Q. You say that was for the month of December 1950?

A. Right.

Q. That is shipments that exceeded 5,000 pounds in weight?

A. The total weight was 354,610 pounds.

Q. And how about your shipments under 5,000 pounds for the same period?

A. Shipments 2,000 pounds to 5,000, we had 12 and the weight on those was 34,746 pounds.

Q. And that was for the same period of time?

A. Right.

Q. And how about for shipments under 2,000 pounds for the same period interlined between the two companies?

A. We had 146. The weight was 55,003 pounds.

Q. That was for the same period interlined between your [fol. 481] company and the Rock Island Motor Transit Company?

A. That's right.

Q. You don't have the destination points, or point or origin on those?

A. No; I don't, I have the copies of the bills that I can leave as evidence.

Q. Now, state whether or not the shipments that you have reference to during the month of December 1950, interlined between the Rock Island Motor Transit and your company, were typical of shipments subsequent to December 1950 up to the time that there were restrictions placed on the Rock Island Motor Transit Company.

A. That was the general run of freight between the two companies.

Q. How about since the time that the Rock Island Motor Transit has been restricted in its operations, if your company has had shipments in excess of 5,000 pounds which they had to find some other source of delivery?

A. We have.

Q. Now, Mr. Cecil, going back a minute, is your company a member of various trucking organizations? Do they participate in the regularly recognized tariff bureaus?

A. We do.

Q. Rate publishing organizations in this area?

A. Yes.

Q. State whether or not in your opinion there is a need [fol. 482] for the continuation of the same type of service that the Rock Island Motor Transit was giving prior to the time of any restrictions placed upon its operations.

A. I believe there is.

Q. These freight bills which you have produced here, or rather copies of freight bills, for what period of time do they cover?

A. The month of December 1950.

Q. These are just the freight bills for that particular month?

A. Yes.

Q. And do these freight bills show the points of origin and points of destination of these various shipments?

A. Right.

Mr. Nolan: This is off the record.

Exam. Carpenter: Off the record.

(Discussion off the record.)

By Mr. Nolan:

Q. Just a couple more questions. Mr. Cecil, would you tell us in general the type of merchandise that is shipped and originated on your line for destination to Iowa points? What industries does your company serve which have shipments going into the Iowa territory?

A. We have general commodities, of course. To the smaller off-line points, I think agricultural implements and their parts. We have a manufacturing concern in Kewanee that makes steel window sash, drain traps and commodities of that type which go to lumberyards in all small communities. Tractor parts. Everything from alcoholic liquor on [fol. 483] down.

Q. And the alcoholic liquors generally originate in Peoria, do they not?

A. Right.

Q. Mr. Cecil, do you know of any other transportation agency other than the Rock Island Motor Transit Company that is available to handle shipments interlined to your company at the Tri Cities for destination in the so-called small towns in Iowa served by the Rock Island Motor Transit?

A. I know that during the period of time that they were restricted we had a terrible time with merchandise, getting it to those small towns. I didn't have a complete abstract of each bill, I couldn't tell the reason every one of them was re-routed or maybe returned to the shipper or converted to rail even at the time that they were restricted, so I didn't bring that with me.

Q. Now, has your company had shipments refused at Davenport by other transportation companies other than Rock Island Motor Transit for transfer to destination of shipments to small towns in the State of Iowa?

A. We have.

Q. Has that situation changed any for the better or worse in recent months?

A. On shipments of less than 5,000 pounds, we can get rid of them by Rock Island Motor Transit now and it has cleared up quite a bit.

[fol. 484] Q. Has that been brought about by the Rock Island Motor Transit Company being increased to 5,000 pounds?

A. It has.

Q. Have any other carriers come into the field which are offering the same type of service to these destination points in the small towns other than Rock Island Motor Transit Company that you know of?

A. Not to my knowledge.

Q. You say the exhibits, the freight bills which you have tendered here for the month of December 1950, are typical of the flow of traffic, the type of merchandise, that your company has interlined with the Rock Island Motor Transit for many years and has since December 1950 up to the present time?

A. At the present time, I think our average month's business with Rock Island Motor Transit amounts to around

50,000 pounds a month, which is greatly reduced due to the restrictions that they have.

Q. But I say, so far as the points of origin, the destinations, the type of shipments, these freight bills which you have tendered here for examination are typical of the flow of traffic between your company and the Rock Island Motor Transit on interchange at Davenport, is that correct?

A. It is.

Q. State whether or not you, as a representative of your company and from your experience, if there is a need for [fol. 485] the continuation of the service offered by the Rock Island Motor Transit Company in the Iowa territory as covered by this application as the company operated prior to any restrictions?

A. There is.

Q. Now, Mr. Cecil, I will ask you whether or not the imposition of the existing restrictions on the Rock Island Motor Transit has caused any adverse effect on the operations of your company.

A. Definitely.

Q. What are those adverse effects?

A. Lost a lot of tonnage due to the restrictions of 5,000 pounds which we were handling before, that the shipments were over 5,000 pounds.

Q. Has that been due to the fact that you haven't been able to interline with other carriers giving the same quality of service as the Rock Island Motor Transit?

A. In some cases.

Mr. Nolan: You may cross-examine.

Cross-examination.

By Mr. Fowler:

Q. Mr. Cecil, I don't believe I understand you. You want to tell us that you cannot make an interline connection with a carrier at Davenport for Cedar Rapids other than the Rock Island Motor Transit Company?

A. Cedar Rapids is a key point, sir. We can make interline shipments for there.

Q. There wouldn't be any difficulty about that?

[fol. 486] A. Not on Cedar Rapids itself. It is a point involved in this application, though, I believe.

Q. You wouldn't have any difficulty making interline arrangements with another carrier at Davenport for Mason City, Iowa?

A. To some extent, yes.

Q. There are other carriers operating?

A. Not with the service that Rock Island Motor Transit could give us.

Q. Sir?

A. Not with the service that Rock Island Motor Transit could give us.

Q. That isn't what I asked you. I asked you if you couldn't get an interline carrier that would take that traffic to Mason City at Davenport.

A. Yes, sir.

Q. You wouldn't have any trouble arranging an interline arrangement at Davenport for traffic to be destined to Des Moines, Iowa, would you?

A. No, sir.

Q. How about Muscatine?

A. No, sir.

Q. In other words, you wouldn't have any trouble getting another interline arrangement there. Have you ever had occasion to ascertain whether you could enter into an interline arrangement with carriers in the Tri-City area for shipments destined to Iowa City?

[fol. 487] A. Yes, sir.

Q. Other than Rock Island Motor Transit?

A. Yes, sir.

Q. There are other carriers serving the point, I believe.

A. Right.

Q. So you could make another interline arrangement on Iowa City.

A. It is a key point.

Q. Have you ever undertaken to make any interline arrangements with other carriers for Atlantic, Iowa?

A. Yes, sir.

Q. Were you able to do it?

A. I believe the shipments of over 5,000 pounds, we had trouble on when Rock Island Motor was restricted to that certain point.

Q. What did you finally do with them?

A. I believe they were moved by line to Des Moines and thence another line to destination.

Q. They were moved all right?

A. After a certain amount of delay; yes, sir.

Q. Do you know just what towns are involved in this particular application?

A. I can't name them town for town. I know they lie along——

Q. As a matter of fact, Mr. Cecil, in the bunch of bills which you produced here there are only two shipments moving into these smaller towns, aren't there?

[fol. 488] A. I believe that the bills are all along route 6.

Q. That isn't what I asked you.

Exam. Carpenter: Read the question.

(Question read.)

By Mr. Fowler:

Q. On U. S. highway 6.

A. I can't answer that question, sir.

Q. These figures you have given us, that is the total interline exchange between Rock Island Motor Transit to your line and your line back to Rock Island Motor Transit, isn't it?

A. It is, sir.

Q. You are aware, are you not, that the permanent authority which the Rock Island Motor Transit now has restricts the operation to an auxiliary and supplemental rail service?

A. Yes.

Q. And that means that the shipments must be transported, as I understand it, on rail billing, is that correct, or do you know?

A. I don't know.

Q. Now, couldn't you as a common carrier by motor vehicle enter into some arrangement with the Rock Island Railroad Company under that restricted operation under joint-rate agreement and you get the same service?

A. I couldn't answer that.

Q. I don't know just exactly why you are here. You bring

in a bunch of bills here which show an interchange between Rock Island Motor Transit Company and yourself. Over [fol. 489] half of those bills are on shipments moving Peoria, Ill., and Cedar Rapids, Iowa, in one direction or the other.

Mr. Nolan: That is a misstatement of the record.

Mr. Fowler: That is my opinion.

Mr. Howland: Now, if the examiner please, I want to object to the interrogatory, if it is an interrogatory, as not proper cross-examination and purely argumentative. I have no objection to Mr. Fowler cross-examining this witness. I don't believe he ought to argue with him.

Mr. Fowler: Go back and read my last question.

(Question read.)

By Mr Fowler:

Q. What bearing could that have on this situation?

A. I was under——

Mr. Howland: Just a minute. Same objection.

Exam. Carpenter: I will overrule the objection and let him answer.

Mr. Howland: I will clear that up on my redirect examination.

Mr. Fowler: I didn't interfere with you fellows. I thought I was pretty decent this morning while you were examining these witnesses. I would like to have the same courtesy, if you please.

Exam. Carpenter: Read the question.

(Question read.)

[fol. 490] A. I was under the impression that Cedar Rapids was involved.

By Mr. Fowler.

Q. But Cedar Rapids is not one of these smaller towns that you were talking about on U. S. highway 6, is it?

A. No; it isn't a smaller town, but it is involved in the application.

Q. And Cedar Rapids is one you could readily make an interchange agreement with such other carrier, isn't it?

A. Right.

Q. Did you say "right"?

A. Right.

Q. You don't give any thought or attention to a proposed joint rate or joine-line agreement between your company and the Rock Island Motor Transit Company operating under a restricted certificate in connection with your testimony, do you?

A. I didn't know it was possible.

Q. You are aware, aren't you, that in some parts of the country they have such agreements between common carriers and railroads and railroad-owned subsidiaries?

A. Personally, no.

Q. Mr. Cecil, just what is it that you want to tell the Commission about this application?

A. You want my personal thought on the thing?

Q. As it is applied to the service.

A. Well, sir, I feel that a carrier serving a small community should be entitled to serve the larger community also. Lots of our common carriers are today serving what [fol. 491] I call key points. Lots of them are serving key points and peddle points, too. I personally believe that a party that serves a peddle point should be allowed to serve the key points with no restrictions on either one.

Q. Was that why you are here, for that reason?

A. I am here to see if we can't get unrestricted service to these peddle-point towns which we do have quite a bit of freight for. That means a hardship on us when we have to divert traffic to two or three different lines where we could deliver it all to one carrier.

Q. You still could get it, could you not, even under a restricted operation, if the railroad or Rock Island Motor Transit would enter into the proper arrangement with you?

A. If that is possible, sir.

Q. All you want is, you want the Rock Island to interchange freight with you?

A. Absolutely.

Q. You are satisfied to do it under any kind of arrangement they are willing to make with you

A. As long as it is profitable.

Mr. Fowler: That is all.
Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Nolan:

Q. Mr. Cecil, do you have an opinion from your experi-
[fol. 492] ence in the transportation business as to whether or not it is feasible or practical for a company to serve only the peddle points or small towns and exclude from that operation the so-called overhead operation between the larger points?

A. It is not.

Q. Now, assuming that there were a key-point restriction on a rail operation, on a rail-truck operation on rail billing at the Tri Cities and at Des Moines so that the transit company could not handle freight tendered by your company to it even on rail billing to points west of Des Moines, would that——

Mr. Howland: Or to Des Moines, Iowa.

By Mr. Nolan:

Q. Or to Des Moines, Iowa, direct or proper, would that interfere with the interchange of your traffic with the Rock Island Motor Transit Company?

Mr. Fowler: That is objected to as immaterial, and for the further reason it assumes facts not established in this record.

Exam. Carpenter: Objection overruled.
Would you restate the question?

By Mr. Nolan:

Q. Under the present restrictions, as I understand them, the Rock Island Motor Transit Company, on its permanent authority at the present time, it is required to handle traffic moving solely on rail billing with key-point restrictions at the Tri Cities, Des Moines, and Omaha, traffic in

flowing between the key points or through more than one key point; would such restrictions, even though the Rock Island Motor Transit Company could interline with you on [fol. 493] an arrangement whereby their rail billing would be on the same basis as your truck billing through a participation in a joint-tariff arrangement, would those restrictions, such key-point restrictions, interfere with the interchange of your traffic with the Rock Island Motor Transit Company for Des Moines and points west of Des Moines?

Mr. Fowler: Same objection that I made with respect to the previous question.

Exam. Carpenter: Same ruling.

By Mr. Nolan:

Q. Would such an arrangement as that be satisfactory to your company?

Mr. Fowler: Same objection.

Exam. Carpenter: Same ruling.

A. Well, I am not familiar with that arrangement. I really can't answer it.

Exam. Carpenter: If you can't answer the question, say you can't answer the question.

By Mr. Nolan:

Q. Now, Mr. Cecil, I will ask you whether or not you know of any railroad subsidiaries who are engaged in the trucking business in the Midwest territory who have joint rates with truck lines or who have participated in any truck rates.

A. I do not.

Q. And these freight bills which you refer to as representing shipments from your company during the month of December 1950 interlined with the Rock Island Motor [fol. 494] Transit, although some of them do show shipments going to or from the so-called larger points in the State of Iowa and others showing shipments to or from the smaller points in the State of Iowa served by the Rock

Island Motor Transit, state whether or not it is your opinion that it is necessary to have the business to the larger towns or from the larger towns in order to enable your company to serve the smaller towns in Iowa, either to or from those points.

Mr. Fowler: Objected to as immaterial, calling for pure speculation and conjecture on the part of the witness.

Exam. Carpenter: It calls for the same answer he gave you, Mr. Fowler. Objection overruled.

A. It does.

By Mr. Nolan:

Q. State whether or not the reason you are here is to maintain the same type of service with the Rock Island Motor Transit Company that you had into the Iowa territory and from the Iowa territory prior to the time restrictions were placed on the Rock Island Motor Transit; state whether or not that is or is not the purpose of your being here.

Mr. Fowler: Objected to as leading, assuming a fact not established in the record.

Mr. Nolan: You asked him why he was here and I am just asking him what was that reason.

Exam. Carpenter: Let him answer.

Mr. Fowler: Objected to as leading.

[fol. 495] Exam. Carpenter: Overruled.

A. It is.

By Mr. Nolan:

Q. Is there anything else, whether I have asked you or Mr. Fowler has asked you or anybody else, about this application that you want to make a statement on concerning why you are here or the effect of any curtailment of the Rock Island Motor Transit Company service?

Mr. Fowler: I am going to object to that for the reason that it calls for a statement, voluntary statement, of the witness.

Exam. Carpenter: Objection sustained, Mr. Fowler.

Mr. Nolan: That is all.

(Witness excused.)

Mr. Howland: I would like to recall Mr. Cole.

L. L. Cole resumed his testimony as follows:

Direct examination (resumed).

By Mr. Howland:

Q. Mr. Cole, you were on the stand and temporarily stepped aside to permit the testimony of Mr. Cecil to be taken.

Did you also prepare a graph which embodies the information in composite form disclosed by the reports that you have referred to which are on file with the Iowa State Commerce Commission, showing the average haul in miles of the Rock Island Motor Transit Company, the average miles per ton hauled for the Rock Island Railroad, and the composite figure of average haul in miles for the selected [fol. 496] Midwestern trucking companies that were referred to on exhibit 8?

A. I did.

Mr. Howland: I will ask that this document now be marked for identification purposes as exhibit 9.

(The document referred to was marked as "Applicant's Exhibit No. 9, Witness Cole," for identification.)

By Mr. Howland:

Q. Now, referring to the document marked for identification as exhibit 9, will you tell us what the figure shown by the upper graph line, which is in blue, represents and how that graph was prepared and the figure secured?

A. The blue line represents the average haul in miles at the end of each year indicated by the graph, the composite figure for the representative trucking companies listed.

Q. How did you get it?

A. The information was secured from copies of the ICC reports on file with the Iowa Commerce Commission.

Q. Did the information on file in those reports give the figure of average haul in miles or was it necessary for you to make some other computations?

A. In some instances, they gave the average haul. In others they did not, and it was necessary to use other information contained in the report in order to compute this composite figure.

Q. What other information did you use for that purpose? [fol. 497] A. The ton miles reported by the carriers during the year and the tonnage reported by the carrier.

Q. And that would give you the same information as was directly disclosed in the reports of certain other of the carriers?

A. It would be necessary to go through that procedure to get a composite figure in any event.

Q. What is the lower of the two upper figures?

A. The black line?

Q. Yes; the black line.

A. The black line represents the average miles per ton, Chicago, Rock Island and Pacific Railroad Company, all cars.

Q. Is that the average movement on the Rock Island Railroad of all cars on the ton-mile basis?

A. That is my understanding. This is information contained in their annual reports to the Interstate Commerce Commission.

Q. And that is also on file over here at the State House?

A. I didn't get it from there. I got it from the general office of the railroad company.

Q. Is that report also filed with the Iowa State Commerce Commission?

A. I didn't inquire.

Q. Do you know, as a matter of fact, that that is true?

A. I did not inquire.

Mr. Howland: Is there any question about that?

Mr. Fowler: I don't know anything about that. There [fol. 498] is no question about the figures.

Mr. Howland: Well, the ICC report is filed with the Iowa State Commerce Commission.

By Mr. Howland:

Q. Now, the red line was what?

A. The average haul in miles per year for the Rock Island Motor Transit Company, all freight handled.

Q. Now, the purpose of this exhibit marked for identification as exhibit 9 was what?

A. To give a comparison between the average haul in miles for the representative carriers, Chicago, Rock Island and Pacific Railroad, and the Rock Island Motor Transit Company.

Q. And as shown by the exhibit, the average haul in miles by the representative Midwest trucking companies rose from 335 miles in 1944 to 527 miles in 1950?

A. That is correct.

Q. Whereas, the average haul of the Rock Island Railroad in cars declined from 354.1 miles to 318.35 miles in the same period of time?

A. That is correct.

Q. And the average haul of the Rock Island Motor Transit Company for all freight handled rose only from an average of 165 miles in 1944 to 177 miles in 1950?

A. That is correct.

OFFERS IN EVIDENCE

Mr. Howland: We will offer and introduce in evidence at this time exhibit No. 9.

[fol. 499] Mr. Fowler: May I examine?

Exam. Carpenter: Cross-examine on the exhibit.

By Mr. Fowler:

Q. What does average haul in miles mean?

A. It is the average distance a ton of freight is hauled over the year it is experienced.

Q. Well, again you have used the same carriers——

A. That is correct.

Q. —as you did on exhibit 8?

A. That is correct.

Q. And again you don't know what influences or circumstances may have caused an increase or decrease in their average haul in miles?

A. That is correct.

Q. Does this include intrastate traffic as well as interstate traffic?

A. It does.

Q. Is that also true with respect to exhibit No. 8?

A. That is correct.

Q. Again, why did you select these particular carriers?

A. We thought they were representative carriers in this territory.

Q. Of course, you are aware of many carriers in this territory that have a so-called short-haul peddle operation. Why didn't you include those?

A. I don't get your question.

[fol. 500] Q. You have got some carriers operating out of Des Moines here that are purely intrastate carriers with short hauls. Why didn't you include them?

A. We thought that these were representative carriers.

Q. You didn't arrive at the result first and then pick out the carriers, did you?

A. No.

Mr. Fowler: The exhibit is objected to for the reason that it develops hearsay evidence, it is incompetent, no proper foundation has been laid for its introduction, it is immaterial.

Exam. Carpenter: Objection overruled. The document is received in evidence as exhibit No. 9.

(Applicant's Exhibit No. 9, Witness Cole, was received in evidence.)

Mr. Howland: I will ask that the sheet in graph form headed, "Average Load in Tons 1944-1950," be marked for identification as applicant's exhibit No. 10.

(The document referred to was marked as "Applicant's Exhibit No. 10, Witness Cole," for identification.)

By Mr. Howland:

Q. I will ask you, Mr. Cole, with respect to the graph marked for identification as applicant's exhibit No. 10, how the information there depicted in graph form was

secured and what you did in making up the graph to transfer that information to the exhibit itself.

[fol. 501] A. The basic information was obtained from copies of the ICC report on file with the Iowa Commerce Commission. In order to obtain a composite figure yearly for the representative motor carriers, we divided their ton miles by miles operated—that is, the aggregate figures—to secure this annual figure for the average loaded tons during that year as depicted at the bottom of the graph. The Rock Island Motor Transit Company figures were taken from the annual reports also on file.

Q. And all of the figures then were taken from the reports on file with the Iowa State Commerce Commission, but they are ICC reports, as I understand?

A. That is correct.

Q. Now, you used, of course, the same eight trucking companies that were used in connection with the compilation of exhibits 8 and 9?

A. I did, except there are nine carriers.

Q. Nine carriers instead of eight, and as far as the nine operators are concerned, this is a composite figure?

A. That is correct.

Q. But the lower figure, the lower line, shows the average load in tons of the Rock Island Motor Transit Company for the period in question?

A. That is correct.

Exam. Carpenter: Pardon me a minute. You said the period in question. You mean the period shown?

[fol. 502] Mr. Howland: The period shown on the face of the document.

Exam. Carpenter: Change it.

By Mr. Howland:

Q. Did you so understand my question——

A. Yes.

Q. —that the period is from 1944 until the end of 1950?

A. That is right.

Q. I will ask you to refer to the data that you have from which the composite figure was prepared and give us the

average load in tons of Des Moines Transportation Company for the period from 1944 to 1950.

A. For each year?

A. No; the—well, give it to us each year so we can see the trend of that individual carrier.

Mr. Fowler: Of course, I am going to object to this line of inquiry as being immaterial, and, with the examiner's permission, just let it be understood that that objection stands.

Exam. Carpenter: We will give you a continuing objection, and it will be overruled.

Mr. Howland: That will be argeeably entirely.

A. In 1944 Des Moines Transportation Company had an average load of 9.69 tons. Do you want it for 1950?

By Mr. Howland:

Q. 1945, 1946, 1947, 1948, 1949 and 1950.

A. 1945 was 9.41. 1946, 11.17. 1947, 11.95. 1948, 10.81. 1949, 10.86. 1950, 12.11.

Q. In other words, both at the beginning of the period [fol. 503] and at all points between 1944 and the end of 1950, the average load in tons handled by Des Moines Transportation Company was substantially above the composite figure, was it not?

A. That is correct.

Q. What about Iowa-Nebraska? Give us the figures on Iowa-Nebraska Transportation Company beginning in 1944 and running through to 1950.

A. In 1944, 10.03. 1945, 10.86. 1946, 12.58. 1947, 12.55. 1948, 12.66. 1949 was 11.88, and 1950, 13.35.

Q. Again in that case, Iowa-Nebraska Transportation Company's average load in tons was substantially in excess of the composite figure?

A. That is correct.

Mr. Howland: At this time we offer and introduce in evidence the document in graph form marked for identification as exhibit No. 10.

Exam. Carpenter: Cross-examine, Mr. Fowler.

By Mr. Fowler:

Q. Again you picked out the same carriers you used in connection with exhibits 8 and 9?

A. That is correct.

Q. And again you don't have any knowledge of the influences which may affect the result of the exhibits you have developed?

A. That is correct.

Q. And again these include intrastate shipments, as well as interstate commerce?

[fol. 504] A. That is correct.

Q. Now, to arrive at what you termed average load in tons, what did you do, take their total tonnage and then divide it by what?

A. Are you speaking of average load of tons?

Q. Yes.

A. That is arrived at by dividing the ton miles—you don't have any graphs of ton miles—by the number of miles operated.

Q. Where did you get the figure, the ton-mile figure?

A. That is also included in the reports.

Q. Did you compute that independently or was it in the report?

A. It is in the report.

Q. So you took the ton miles as reported by these carriers to the Interstate Commerce Commission and divided that into the——

A. Divided that by the number of miles.

Q. Divided that by the number of miles operated in order to arrive at what you call average load?

A. That is correct. That formula, by the way, is set out in the annual reports.

Q. I assume, Mr. Cole, that exhibit No. 10, the same as exhibits 8 and 9, reflects the system operations of these typical carriers you have included in the exhibit?

A. That is correct.

Q. It has no relation to any particular territory?

A. No; it does not.

Q. Or even the territory involved here in this application?

[fol. 505] A. That is correct.

Mr. Fowler: The exhibit is objected to as incompetent and immaterial, for the reason it calls for hearsay evidence, no proper foundation has been laid for its introduction, and that it cannot be of any value in the determination of any issue in this proceeding.

Exam. Carpenter: Objection overruled. The document is received in evidence as exhibit No. 10.

(Applicant's Exhibit No. 10, Witness Cole, was received in evidence.)

By Mr. Howland:

Q. Mr. Cole, have you caused to be prepared a balance sheet statement showing assets and liabilities of the Rock Island Motor Transit Company as of January 31, 1952?

A. That is correct.

Q. And is that the last available balance sheet of the Rock Island Motor Transit Company?

A. It is.

Mr. Howland: Now, I will ask at this time that the statement headed, "Rock Island Motor Transit Company Balance Sheet Statement, January 31, 1952," be marked for identification as exhibit No. 11.

(The document referred to was marked as "Applicant's Exhibit No. 11, Witness Cole," for identification.)

By Mr. Howland:

Q. Is the document marked for identification as exhibit [fol. 506] No. 11 the balance sheet statement of the applicant here, Mr. Cole, as of January 31, 1952?

A. That is correct.

Q. Are the accounts which are included therein kept in the manner prescribed by the Interstate Commerce Commission?

A. They are.

Q. And does this document marked for identification as exhibit No. 11 correctly reflect the assets and liabilities of the Rock Island Motor Transit Company as of January 31, 1952, in accordance with established accounting practices and the accounting rules of the Interstate Commerce Commission?

A. They are.

Mr. Howland: At this time we offer the document marked for identification as exhibit No. 11 in evidence and ask that it be received.

Exam. Carpenter: Any cross-examination, Mr. Fowler?

Mr. Fowler: I am going to cross-examine him, but I have no objection to the exhibit.

Exam. Carpenter: The document will be received in evidence as Exhibit No. 11. I presume no one else has any objections to it down that side of the table. All right.

(Applicant's Exhibit No. 11, Witness Cole, was received in evidence.)

Mr. Howland: Do you want to cross-examine on that now?

Mr. Fowler: I might as well.

[fol. 507] Cross-examination.

By Mr. Fowler:

Q. Referring, Mr. Cole, to exhibit 11, on the asset side you have an item 1100, receivables from affiliated companies, 289-thousand plus. Tell me generally what that involves.

A. That represents bills versus the CRI&P Railroad Company for services performed.

Q. Services performed by the Rock Island Motor Transit Company for the Chicago, Rock Island and Pacific Railroad Company?

A. That is correct.

Q. What would those services consist of?

A. That would be for the hauling of inter-city freight and also for some local services.

Q. All right, what do you mean by hauling inter-city freight?

A. Well, from one point to another.

Q. You mean over the road?

A. Over the road.

Q. If the Rock Island Motor Transit Company is handling all railroad-billed freight on its trucks over the highway from one point to another, does it make a charge against the Rock Island Railroad for that?

A. Oh, yes.

Q. On a stipulated unit basis?

A. It is on so much per hundredweight.

Q. And it is based upon so much per hundred pounds of freight?

A. That is correct.

[fol. 508] Q. Not on any mileage basis?

A. That is correct.

Q. What is that?

A. It does not depend upon mileage.

Q. Then as I understand it, if the Rock Island Railroad tenders to the Rock Island Motor Transit freight to be hauled from point A to point B on the trucks of the Rock Island Motor Transit Company, the Rock Island Motor Transit Company then makes a charge against the Chicago, Rock Island and Pacific Railroad at an agreed unit price, based upon 100 pounds of freight irrespective of the mileage it is hauled?

A. That is correct.

Q. Now, what would be the other services that you spoke of?

A. It would be performing pickup-and-delivery service for the railroad in various communities, various cities. That is why I referred to it as local service.

Q. How do you compute that item, on what basis?

A. It is based upon a charge per hundredweight.

Q. And again then, the Rock Island Motor Transit Company performs a pickup-and-delivery service for the Rock Island Railroad at certain points?

A. That is correct.

Q. For which it receives reimbursement from the railroad at a stipulated price per hundred pounds?

A. That is correct.

[fol. 509] Q. Again, irrespective of the miles or the class of traffic?

A. That is correct.

Q. Doesn't the Rock Island Railroad perform any pickup-and-delivery service of its own in this territory?

A. I am not able to answer that question; no.

Q. But the fact is that the Rock Island Motor Transit Company does perform pickup-and-delivery service for the railroad?

A. That's right.

Q. How did you arrive at this unit cost or did you have anything to do with it?

A. That is a contractual arrangement.

Q. But you didn't sit in on the figures when that was arrived at?

A. I did not.

Q. But you say it is just so much a hundred pounds irrespective of the class of freight and irrespective of the distance that the pickup truck was traveling?

A. In the various communities.

Q. In the various communities.

Mr. Howland: Just so counsel is informed, is that on the uniform rate or does that vary from community to community?

The Witness: It varies from community to community.

By Mr. Fowler:

Q. Now, you have an asset item, 1200, carrier operating property. What does Rock Island Motor Transit Company own in the way of real estate?

A. It owns the garage building in Des Moines.

[fol. 510] Q. Anything else?

A. No.

Q. Then all of the terminal facilities it occupies are leased buildings and on leased land?

A. They are leased buildings.

Q. In other words, they don't own any of the property except the garage building in Des Moines?

A. That is correct.

Q. And I think that Rock Island Motor Transit has leases with the Rock Island Railroad, does it not, for the facilities owned by the railroad which it does occupy?

Mr. Fowler: Read the question.

(Question read.)

A. Do you have any particular point in mind?

By Mr. Fowler:

Q. Well, I guess I have every point in mind; all you own is the garage building in Des Moines. Who owns the rest of the stuff you use?

A: We lease it from the railroad. The answer would be "yes."

Q. Do you have written leases?

A. We do have.

Q. On each piece of property?

A. I believe so, I don't keep those in my custody.

Mr. Howland: There will be another witness on that.

By Mr. Fowler:

Q. Looking at the liability side, item 2050, accounts payable, is that your ordinary operating normal accounts pay-
[fol. 511] able or is it something special?

A. There is nothing special in there that I know of.

Q. Your liability item, 2200, advances payable associated companies, $873,000, is that money that you owe the railroad company?

A. That is correct.

Q. In other words, Rock Island Railroad has advanced to Rock Island Motor Transit funds from time to time and the balance unpaid as at January 31, 1952, was $873,000?

A. That is correct.

Q. You have a liability item, 2360B, other than long-term obligations, a quarter of a million dollars; what is that?

A. That is a loan which was obtained from the First National Bank in Chicago.

Q. For equipment?

A. I wasn't informed as to what it was to be used for.

Q. Don't you make this statement up?

A: Yes, but when they borrowed the money they didn't tell me what they were going to borrow it for.

Q. They just told you they owed the bank $250,000?

A. They got the money. It was recorded on the books.

Q. Did you ever see the $250,000?

A. No. That is in the treasurer's office.

Q. You don't have that?

A. No, sir.

Q. Where is the treasurer of the Rock Island Motor Transit Company?

[fol. 512] A. In Chicago, Ill.

Q. Does he have his office in the office of the Rock Island Railroad?

A. That is correct.

Q. He doesn't happen to be the treasurer of the Rock Island Railroad, too, does he?

A. He does.

Q. So all you know about the item 2360B appearing on exhibit 11 under the liability side you were told to record on the books a loan of $250,000?

A. We obtained the loan.

Q. You were told to record it on the books, weren't you?

A. That is right.

Q. And the $250,000 was turned over to the treasurer in Chicago?

A. That is correct.

Q. You assume he put it in the bank to the credit of the Rock Island Motor Transit Company?

A. That is right.

Mr. Fowler: Are we going to have an income statement here?

Mr. Howland: I haven't assumed that we would use that. We can get it. We will have an income statement for 1950 and 1951, but not for any later period.

By Mr. Fowler:

Q. Mr. Cole, the fact is that your operations during the last, we will say, 6-month period are developing a loss, [fol. 513] aren't they?

A. That is correct.

Mr. Fowler: That is all.

Mr. Howland: Are you through with the cross-examination?

Exam. Carpenter: Any further cross-examination? Redirect.

Redirect-examination.

By Mr. Howland:

Q. Mr. Cole, the accounts of the Rock Island Motor Transit Company are kept by you—that is, the books and the accounts are kept by you—in accordance with established accounting practices?

A. That is correct.

Q. You are neither the president, the vice president, nor the treasurer of the Rock Island Railroad—I mean the Rock Island Motor Transit Company; those are the three offices Mr. Farrington referred to where the officers were common to the Rock Island Railroad and the Rock Island Motor Transit Company, is that not right?

A. I wasn't present when he made that statement.

Q. Is it not true that the president of the Rock Island Motor Transit Company and the treasurer of the Rock Island Motor Transit Company are the same as the president and treasurer of the Rock Island Railroad?

A. That is correct.

Mr. Howland: All right.

Mr. Fowler: There is one other question I would like to ask.

Exam. Carpenter: Just a minute. Are you through?

[fol. 514] Mr. Howland: I am through.

Exam. Carpenter: All right, go ahead.

By Mr. Fowler:

Q. Are the general books of the Rock Island Motor Transit Company kept in the treasurer's office in Chicago?

A. No; they are not.

Q. Your general ledgers are kept here at Des Moines?

A. The general ledgers are kept in the general auditor's office in Chicago. We prepare the entries and submit them to them.

Q. That is it then. In other words, the general books of the Rock Island Motor Transit Company are kept in the office of the Rock Island Railroad in Chicago, Ill.?

A. That is correct.

Q. And all that you have to do with it is to record transactions that they tell you to record out here in your sub-ledger?

A. They never tell us what to record.

Q. How did you know they borrowed $250,000? Who told you to put that on the books?

A. Sir?

Q. Who told you to put that on the books?

A. Well, I don't recall who. That is recorded in the general ledger——

Q. I understand.

A. —and we obtained the money and when you deposit the money you have to make entries.

Q. Do you undertake to keep a set of general books [fol. 515] out here, too, that are duplicative of the Chicago books?

A. On most of the accounts we do, but not on all of them.

Q. What would be the normal procedure when the treasurer of the Rock Island Railroad Company would go over to the bank and borrow $250,000 for the Rock Island Motor Transit Company and he wanted to tell you he had done it, what would he do, send you a memorandum or how would he let you know he had borrowed the money?

A. That would be recorded in an entry on the cash book.

Q. Yes, but you record it in the cash book, don't you?

A. No.

Q. How do you find out it has been recorded on the cash book? Who tells you that?

A. The cash book is kept in Chicago and the general ledger is kept in Chicago. They actually recorded this entry.

Q. Then you didn't record it out here on your books?

A. That's right.

Q. That is right, you didn't?

A. I did not.

Q. And of course you didn't prepare this statement?

A. I asked for it to be prepared.

Q. You did not prepare it and the information you have here in Des Moines is not sufficient to prepare this statement, is it? In other words, the records that are necessary to prepare the type of a statement such as exhibit 11 would have to be taken from the general books in Chicago?

[fol. 516] A. We have the other statements that would enable us to prepare such a statement. However, if they were to be taken from the general ledgers, they would have to be made in Chicago.

Q. In other words, the general ledgers are kept in Chicago?

A. That is right.

Mr. Fowler: All right.

By Mr. Howland:

Q. Now, do you have a study of certain figures that were made up by you some year or two ago in tabular form? Mr. Cole, did you early in the year 1951 have occasion to make a study of the operations of the Rock Island Motor Transit Company and certain other trucking companies doing business in the City of Des Moines, Iowa?

A. I assembled such a study. However, I only prepared the figures for the Rock Island Motor Transit Company.

Q. Well, you were furnished figures by certain other motor truck companies doing business in the City of Des Moines and that was included in a sheet showing the results of the tabulation of the business and the costs of the various concerns that participated in the study?

A. That is correct.

Q. What was the occasion for making up that terminal cost survey?

A. It was occasioned by a desire on the part of the trucking companies of Des Moines in obtaining information concerning their costs compared one company to another.

Q. And what were the items that were reported to you by [fol. 517] the various companies and what report was made as to the details for which information was furnished?

The Witness: Would you read the question, please?

(Question read.)

A. The information was obtained from each carrier as to the hours of service on their platform, the amount of wages covering those hours, the number of hours pickup-and-delivery service in less-than-truckload quantities, and the applicable wages, the hours pickup-and-delivery service on truckload quantities, the wages applying to those hours, the number of pounds of platform handling on inbound freight, the number of pounds platform handling on outbound freight, the number of pounds pickup-and-delivery service less than truckload; the number of pounds of pickup-and-delivery service, truckload. That was the basic information that was furnished.

Q. And who were the carriers that participated in that study or survey?

A. Rock Island Motor Transit Company, Des Moines Transportation Company, Watson Bros., Bruce Motor Freight, Burlington Transportation Company, and the Bruce Transfer Company.

Q. And those are all motor carriers operating in the City of Des Moines, Iowa?

A. With the exception of the Bruce Transfer. I am not certain as to their— They participated in the study, but I am not certain about their certificate.

[fol. 518] Q. That is not the Bruce Transportation Company?

A. No; it is Bruce Transfer.

Mr. Howland: All right. I will ask that the exhibit embodying the information referred to and headed, "Terminal Cost Survey, Des Moines Motor Carriers," be marked for identification as applicant's exhibit 12.

(The document referred to was marked as "Applicant's Exhibit No. 12, Witness Cole," for identification.)

By Mr. Howland:

Q. Now, I notice here that——

Mr. Fowler: Wait a minute, Mr. Howland. I think before you read anything from the exhibit into the record, I would like to have an opportunity to examine the witness a minute and make an objection.

Exam. Carpenter: All right, go ahead.

By Mr. Fowler:

Q. Mr. Cole, as I understand it, the figures in the first column on this exhibit 12, with the heading, "Rock Island Motor," was prepared by you——

A. That is correct.

Q. —personally?

A. That is correct.

Q. The figures for the other carriers listed on that exhibit were given to you by them?

A. That is correct.

Q. And when was this?

[fol. 519] A. That was some recent day following February 3. I don't know the exact date. February 3, 1951.

Q. Do you have those reports that were given to you by these carriers here?

A. I don't have them with me.

Q. Do you have them in the office?

A. I believe I still have them.

Q. They are still in existence then, so far as you know?

A. I would have to check to say that.

Q. The Burlington Transportation Company, is that a subsidiary of the Burlington railroad?

A. I understand that it is.

Q. It isn't involved in this territory we are talking about here in this proceeding, is it?

A. I don't know where their operations are.

Q. And the Bruce Transfer and Storage is not a common carrier at all, is it?

A. As I stated a minute ago, I wasn't certain about their category in this.

Mr. Fowler: Mr. Examiner, I think before counsel starts reading in the record information that appears on the exhibit he ought to offer the exhibit in evidence and let me object to it.

Mr. Howland: I am perfectly willing to do that. I thought I had to qualify it a little more.

Mr. Fowler: We know what it is. It is objected to on the [fol. 520] ground it is immaterial, incompetent, no proper foundation has been laid for its introduction, it is hearsay and secondary.

Exam. Carpenter: Objection overruled. The document is received in evidence as exhibit No. 12.

(Applicant's Exhibit No. 12, Witness Cole, was received in evidence.)

By Mr. Howland:

Q. Mr. Cole, the concern known as Bruce Motor Freight is a motor carrier doing business in the City of Des Moines, is it not?

A. Yes.

Q. And all of the concerns shown here on the document identified as exhibit 12 are motor carriers with the possible exception of the one referred to as Bruce Transfer, the status of which you were uncertain about?

A. That is right.

Q. Now, you show here on this statement under the first heading, "Platform employees," and then there appears certain figures as to each of these carriers, including Bruce Transfer, opposite the designation or tabulation "Hours." What is shown by this "Platform employees," "Hours," that you show on exhibit 12? What is included there?

A. That is the number of hours reported for the amount of labor—not the amount of labor, but the number of hours spent by platform employees during the week January 29-February 3, inclusive.

[fol. 521] Q. Is that man hours of platform labor——

A. That is man hours.

Q. —at the freight house of the Rock Island Motor Transit Company in Des Moines during the period January 29 to February 3, 1951?

A. In the first column, that is right.

Q. Yes. The second column is the same figure as reported by Des Moines Transportation Company?

A. That is right.

Q. The third figure is that reported by Watson Bros. Transportation Co.?

A. That is right.

Q. The next one is Bruce Motor Freight and the next one is Burlington Transportation Company.

A. That is right.

Q. In other words, the total number of man hours of the employees at the dock or engaged in handling, loading and unloading of motor truck units?

A. That is correct.

Q. And below that in dollars is shown the reported cost by each of the carriers for those man hours?

A. That is correct.

Q. Now, what is included under your pickup and delivery? First, I notice you have less-than-truckload and you have hours. Then you have truckload and wages under each one of those items.

[fol. 522] A. For the purposes of this study, we made a breakdown of the man hours spent in pickup-and-delivery service, breaking that down between the number of man hours spent in less-than-truckload and the number of man hours in truckload pickup-and-delivery service.

Q. And was that reported to you by each of the carriers and by Bruce Transfer and by Rock Island Motor Transit?

A. That's right.

Q. In other words, as I understand it, the Rock Island Motor Transit Company during the period covered by the survey had 1,185 and a half man hours of labor employed in less-than-truckload pickup-and-delivery service?

A. That is correct.

Q. And for that 1,185 and a half hours they paid in wages $1,660.91?

A. That is correct.

Q. And the corresponding figures with respect to the other *con* concerns are the corresponding items?

A. That is correct.

Q. Now, what would be pickup-and-delivery service on truckloads? How come you would have pickup-and-delivery service on truckloads?

A. It was occasioned by the fact that truckload freight comes into the dock, the road driver is relieved of his duties, and the pickup-and-delivery man takes that unit and makes the delivery.

[fol. 523] Q. Do I understand then if a truckload of freight consigned to a concern in Des Moines, Iowa, arrives at the dock in Des Moines, that the over-the-road driver gets off the truck and you put a local driver on who handles the load to the consignee's place of business?

A. That is right.

Q. And there helps in the unloading, if necessary, or unloads it?

A. That is correct.

Q. And it is that type and character of service that the hours and wages were reported on the document marked as exhibit 12?

A. That is correct.

Q. Now this matter of platform handling that appears next in the exhibit, what is disclosed under that category in each of the columns?

A. You mean the platform pounds per man hour?

A. Well, what is it? You see, you show platform handling inbound weight (pounds) and outbound weight (pounds) and then you have total inbound and outbound which seems to be the sum of the two figures thus handled. Now, what appears under that?

A. That figure, that is broken down between inbound and outbound because of the nature of the forms which we use in making this accumulation.

Q. Does that show the total number of pounds of freight handled on the particular days involved, inbound freight for each of the concerns listed and the outbound freight?

[fol. 524] A. That is correct.

Q. And the composite figure is the two, is that right?

A. Total handled across the platform in that week; the total of those two.

Q. Now, you have next some weight figures under "Pickup and Delivery." What is indicated there?

A. That represents the number of pounds freight given pickup-and-delivery service in the two categories, less-than-truckload and truckload.

Q. For the period shown by the exhibit?

A. For the period shown.

Q. In other words, during that period, which I take would be approximately 6 days' time, the Rock Island Motor Transit Company performed pickup-and-delivery service on truckloads of 221,669 pounds of freight, am I correct in that?

A. That is correct.

Q. While on less-than-truckload freight, they performed pickup-and-delivery service on 1,769,751 pounds.

A. That is correct.

Q. And with Des Moines Transportation the figure was 1,758,134 pounds of truckload freight and 1,922,870 pounds of less-than-truckload freight?

A. That is correct.

Q. Now, what is referred to under the heading of "platform—pounds per man hour," and "Platform—cost per hundredweight"?

[fol. 525] A. Those are the figures that were obtained from the basic data included in the earlier part of the

report. In other words, the number of pounds given platform handling and the number of hours put in by platform employees produced pounds per man hour for the Rock Island Motor Transit Company of 1,120 pounds per man hour.

Q. In other words, for each man hour of labor performed at the— Each man hour of labor performed resulted in the handling of 1,120 pounds on the dock at a cost per hundredweight of 13 cents in the case of the Rock Island Motor Transit Company and at the other rates shown on the exhibit in the case of the other carriers?

A. That is correct.

Q. Now, what about your pickup-and-delivery figures shown below?

A. Those again are figures which were obtained from computations made from the basic data secured.

Q. What is the significance of them? Can you explain a little more in detail what the meaning of the figures shown would be?

A. The first figure under that category, 1,493 represents the number of pounds in the less-than-truckload category that would be picked up and delivered by the Rock Island Motor Transit Company in Des Moines for this period. The next figure is the cost of the picking up and delivery of that same category. The next figure is the number of stops made in performing that service.

[fol. 526] Q. You mean that is the total number of stops made by the pickup-and-delivery truck?

A. That is correct.

Q. In other words, to pick up this total freight it took 2,218 stops by the trucks of the Rock Island Motor Transit Company?

A. That is correct.

Q. The rest of the figures are on the same basis?

A. They are statistics that were furnished us in our earlier work.

Q. Now, I call particular attention to the figures here with respect to the truckloads in pickup-and-delivery service, that the Rock Island Motor Transit Company had 34½ man hours of pickup-and-delivery service for truckload quantities while Des Moines Transportation had 183

man hours of similar service in the 6-day period covered by the survey. What does that indicate?

Mr. Fowler: That is objected to as calling for an incompetent conclusion of the witness if he is attempting to testify as to Des Moines Transportation Company.

Mr. Howland: I will withdraw the question and I will ask it this way:

By Mr. Howland:

Q. What is the significance or the comparison between the figures under "Truckload, hours," for pick up and delivery of 34 and a half in the case of the Rock Island Motor Transit Company, 183 in the case of Des Moines Transportation, 90 in the case of Watson Bros., and 48 in [fol. 527] the case of Bruce Motor Freight, and 26½ in Burlington Transportation Company?

Mr. Fowler: Are you asking him to testify what the exhibit shows and is intended to show? You are not asking him to testify about the Des Moines Transit——

Mr. Howland: I am asking what the significance——

Mr. Fowler: Go ahead.

Mr. Howland: —of the difference in those figures indicates as to the quantity of pickup-and-delivery service performed in man hours by the Rock Island Motor Transit and the other carriers, indicates to him.

A. It clearly indicates that the Rock Island Motor Transit Company had a lesser amount of work in that category than the other carriers, consequently having a less volume.

By Mr. Howland:

Q. In other words, they were not handling the same quantity of truckload business?

Mr. Fowler: That week.

By Mr. Howland:

Q. In that particular week.

Mr. Fowler: That is right.

By Mr. Howland:

Q. Now, what is the significance of the figures on platform handling combined inbound and outbound weight handled over the platform for these carriers? Can you explain that?

A. The Rock Island Motor Transit Company handled a comparable amount of platform tonnage as two of the carriers involved and yet — Pardon me, I will have to ask that question be read.

[fol. 528] Mr. Howland: All right, read the question.

(Question read.)

A. The only comparison, the only significance I see in this, is that Rock Island Motor Transit Company handled 2,747,539 pounds across their platform and in pickup-and-delivery service we had a total weight of——

Mr. Howland: Withdraw the last question. I will ask it in this way:

By Mr. Howland:

Q. Do the figures under the column and opposite the column, "Platform handling, inbound and outbound," indicate the quantity of freight in pounds handled by each of these carriers for that period?

A. It represents the amount handled across their platform, but it doesn't necessarily indicate the volume of business in the City of Des Moines proper.

Q. Why not, because of the fact that it does not include truckloads?

A. No; because of the freight inbound that has to be transferred to other units.

Q. Well, inbound has to be transferred to what units?

A. Inbound freight, much of it on the part of the Motor Transit at least, is transferred to peddle trucks.

Q. Rather than merely picked up and delivered?

A. That is right.

Q. All right. Now, do you have an exhibit showing the

[fol. 529] results of the operation of the Rock Island Motor Transit Company by months in the years 1950 and 1951?

Mr. Fowler: I suggest we adjourn. We can't get through with this.

Exam. Carpenter: How much have you got?

Mr. Howland: I expect in the neighborhood of 20 minutes to a half hour.

Exam. Carpenter: Let's cut it off. We will adjourn until 9:30 tomorrow morning at the same place.

(At 5:05 p. m., March 19, 1952, an adjournment was taken until 9:30 a. m. on Thursday, March 20, 1952.)

[fol. 530] TRANSCRIPT OF PROCEEDINGS OF MARCH 20, 1952

Exam. Carpenter: We will proceed whenever you are ready, Mr. Howland.

Mr. Howland: We are ready.

Mr. Nolan: Mr. Hess.

Mr. Howland: If the examiner please, at the time of the adjournment we were examining Mr. Cole on direct examination and had come to sort of a breaking point. We have several witnesses here this morning who are quite anxious to get back to their businesses and if there is no objection from counsel, I would like to call them at this time.

Exam. Carpenter: Any objection? All right, proceed.

VICTOR HESS was sworn and testified as follows:

Direct examination:

By Mr. Nolan:

Q. Give your name, place of residence, and occupation, Mr. Hess.

A. Victor Hess, manager of the Ladora Lumber and Fuel Company, Ladora, Iowa.

Q. Is that a line yard?

A. Yes, sir; United Lumber Company, Clinton.

Q. How long have you been connected with the company at Ladora, Iowa?

A. At Ladora?

Q. Yes.

[fol. 531] A. 7½ years.

Q. Does your company handle all building products, materials, and so forth?

A. Yes.

Q. Including paints?

A. Yes.

Q. Farm supplies, wire?

A. Yes.

Q. Things of that character. You will have to answer so the reporter can get your answer.

Mr. Howland: The answer was "yes."

The Witness: Yes.

By Mr. Nolan:

Q. Now, Mr. Hess, just tell us your source of supplies of less-than-carload shipments, what points do you get supplies from, and what are the supplies?

A. Kansas City, paint. Peoria, shingles.

Q. Where?

A. Peoria, Ill. Joliet, shingles. Kewanee, steel products. Chicago, paints. Minneapolis, insulation board and insulation products. Omaha, corn-cribbing, slat cribbing. Chicago, fencing. Rock Island, millwork. Sterling, Ill., builder's hardware.

Q. Now, with what regularity do you have shipments from these out-of-state points coming into your place of business at Ladora?

A. I will average 4 days a week getting something in.

[fol. 532] Q. Ladora is located on U. S. highway 6, is it not?

A. Yes, sir.

Q. And about 40 miles west of Iowa City?

A. Right.

Q. What is the population of Ladora?

A. 316.

Q. Is your lumber company the only lumber company located at Ladora?

A. Yes.

Q. And what is the fact as to whether or not you handle practically all the building materials and supplies and things of that character at Ladora?

A. Yes.

Q. Now, what service have you been using, or what transportation service have you been using to get these out-of-State shipments into your place of business?

A. I specify Rock Island Motor truck on my orders when I make them out.

Q. Why do you do that?

A. Well, they give a regular service. They are in there between 11:30 and 1:30 every day while I am open for business and while my help is there to unload, and very seldom —once in a while they will have something that they have in the front of the truck and they will have to catch me on the way back, but they still get in there before 3 o'clock. [fol. 533] Of course, it is loaded with my stuff in the back because it comes out first.

Q. You say you get it between 11:30 and 1:30; you mean that is delivered during the daytime?

A. Yes, sir.

Q. During business hours, and if they have to come back they come back by 3 o'clock in the afternoon, is that right?

A. Yes.

Q. Have you had any experience with other transportation companies bringing merchandise to your place of business from out-of-State points?

A. Yes.

Q. And just tell us what experience you have had in that respect.

A. I had reinforcing rods coming in one time, about 2 ton of them, and they came in during the night, and when I came down the next morning they had unloaded them in front of my big overhead door in the driveway, and we——

Q. When was that?

A. That was last year, during last summer.

Q. And what company brought that shipment in?

A. Iowa-Nebraska.

Q. Where did that shipment originate?

A. Seco Steel.

Q. Where?

A. Seco Steel.

Q. I know, but where was Seco Steel plant located?

[fol. 534] A. Oh. In Illinois, Sterling, Ill.

Q. Sterling, Ill.?

A. Yes.

Q. Have you had any other experience with any other transportation company bringing you in merchandise?

A. Watson Bros. brought in paint.

Q. How many shipments and when?

A. They have brought me in two shipments of paint from Kansas City. One was just a year ago this time. They came in there about 10:30 at night and called me down to unload it.

Q. And you say they brought in another shipment at another time then?

A. And then they brought in my second spring order and they couldn't get hold of me that time. I guess I was out of town.

Q. Was that during the nighttime?

A. Yes. There is a parking lot across the street, across highway 6, and they unloaded it in a pile over in the parking lot south of highway 6.

Q. Was that in unprotected territory?

A. Oh, yes. Anybody could have picked up a box of enamel worth over $30.

Q. But they didn't happen to do that?

A. No. Pretty good people.

Q. Around Ladora. Now, what are the size of your shipments ordinarily, Mr. Hess, that you refer to?

[fol. 535] A. Well, I am a rural yard, small town, and we buy most of our merchandise l. c. l., small shipments. So many things customers want in a small yard like that, you can't carry a big inventory so we do more l. c. l. business than we do carload business.

Q. Do you ever have occasion to have shipments in excess of 5,000 pounds brought in?

A. Very seldom.

Q. Well, do you ever have?

A. Yes.

Q. Now, what has been the service of the Rock Island Motor Transit Company in the past; has it been satisfactory or otherwise?

A. They have always been very satisfactory so far as we are concerned.

Q. State whether or not, so far as your company's needs are concerned at Ladora, if you need the continuation of the service of the Rock Island Motor Transit.

A. Yes; it is very important in our business that we have that service.

Q. Now, highway No. 6 runs right through the main street of Ladora, does it not?

A. Yes.

Q. I assume you see a great number of trucks every day of other trucking companies moving through Ladora, both day and night, is that right?

[fol. 536] A. Yes, sir.

Q. Do you know of any one of those trucking companies that makes a regular daytime stop or even a regular nighttime stop at Ladora, daily stop?

A. No.

Mr. Nolan: You may cross-examine.

Cross-examination.

By Mr. Fowler:

Q. Does the Rock Island Railroad have a station agent at Ladora?

A. Yes.

Q. Does the Rock Island agent handle matters for you in connection with your dealings with Rock Island Motor Transit?

A. Yes.

Mr. Fowler: That is all.

Exam. Carpenter: Any further cross-examination? Redirect.

Redirect examination.

By Mr. Nolan:

Q. Now, Mr. Hess, if a shipment comes in on the Rock Island Motor Transit on Rock Island motor freight billing state whether or not that goes to the depot or comes directly to your place of business.

A. If it is Rock Island billing, Rock Island Motor truck, I pay the truck driver. If they pick up a rail shipment for me, then I just sign a waybill and the Rock Island agent collects the freight bill.

Q. Do you have shipments coming in both on Rock Island [fol. 537] motor freight billing and on Rock Island Railroad billing?

A. Most of my Rock Island Railroad business is all carload business, coal mostly, and a car of lumber.

Q. Do you have some less-than-carload shipments that come in on rail billing but handled by Rock Island Motor Transit company truck?

A. The last 2 years I have quit ordering stuff that way. I order Rock Island Motor Transit because I can get something from Chicago in 24 or 48 hours where I have had to wait 2 months for stuff from Waterloo by having it shipped rail. I have had a shipment go out of Waterloo and go clear to California and back before it gets to Ladora.

Q. You mean by the Rock Island Railroad?

A. Yes.

Q. Now, have you ever had a shipment where you specified Rock Island Motor Transit to come by rail?

A. No.

Q. They recognize and honor your specification of routing, is that right?

A. Yes.

Mr. Nolan: That is all.

Exam. Carpenter: Re-cross.

Re-cross-examination.

By Mr. Fowler:

Q. As I understand it, no matter whether it is Rock Island Railroad billing or motor truck billing, it all comes [fol. 538] to you by truck?

A. Yes.

Q. And they——

A. No, excuse me. If you have Rock Island rail shipments, they will bring it in in a freight car sometimes and set it on a sidetrack and then you go down with your truck and unload that out of the boxcar.

Q. Isn't it also true that the Rock Island Motor Transit Company truck delivers merchandise to your place of business that is on rail billing?

A. Yes; if you order rail billing, they will bring it.

Q. In other words, you can specify Rock Island Motor Transit or you can specify Rock Island Railroad and it will come in the same truck?

A. Yes.

Q. When you want a pickup and you have got something you want picked up to go outbound, you notify the Rock Island agent to have the truck stop at your place of business. I am talking about your outbound shipments.

Exam. Carpenter: When you said "Rock Island agent," you mean the rail agent, not the truck agent?

Mr. Fowler: Yes.

A. No. I never ship anything out. We used to ship cement sacks and barrels back, but there is no return on those any more.

[fol. 539] By Mr. Fowler:

Q. If you did have an outbound shipment, you would call the Rock Island agent there and tell him to have the truck stop and pick it up, wouldn't you?

A. I never did when I used to have outbound shipments. I would tell the driver. He stops there every day.

Q. You mean if he stopped to deliver you something.

Mr. Fowler: All right; that is all.

Exam. Carpenter: You are excused.

(Witness excused.)

DON SCHEETZ was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Give us your name, where you live, and what you do.
A. I live at Oxford, Iowa, and I am a rural Watkins dealer.

By Mr. Fowler:

Q. What?
A. A rural Watkins dealer.
Q. Watkins medicine company?
A. Watkins dealer, Watkins products.

By Mr. Nolan:

Q. How long have you been engaged in that business, Mr. Scheetz?
A. 12 years.
Q. What territory do you have?
A. I work everything south of highway 6 south to the Washington county line and from the Iowa river west to [fol. 540] the Iowa County line.
Q. The Iowa River in Johnson County to the Iowa County line west, the Poweshick County line, is that right, on the west or just in Johnson County?
A. Just in Johnson County.
Q. Now, for the purpose of the record will you tell us generally the nature of your business, what you do and what products you handle?
A. Well, we have about 360 different articles which we sell.
Q. Those are sold retail?
A. Retail, direct to the farmer.
Q. To the farmers?

A. And I load these products up as I go out in the morning.

Q. Describe briefly what those products are.

A. Well, we have a farm line which consists of mineral compounds, vitamin supplements, anti-biotics.

Q. That is for animals, hogs, cattle?

A. Insecticides such as fly spray, dips, mange oils, and garden dust. We had a medicine line—everything from linaments to corn salve, and then our household line consists of extracts and spices, cleaning compounds, wax, and things like that.

Q. And that is sold retail to the farmer or the farmer's wife, is that right, in that territory?

A. Whichever one happens to be there.

Q. Now, you are the Watkins dealer. Where is the Wat-
[fol. 541] kins Company located?

A. At Winona, Minn.

Q. What is the name of the Watkins Company?

A. The J. R. Watkins Company.

Q. That is one of the old-line home-remedy companies, isn't it?

A. About 84 years, I guess.

Q. You get your merchandise from Watkins from Winona, Minn., and then you sell retail to the farmer?

A. That is right.

Q. How do your shipments come in to you? Where do you get them at, your home, or do you have a store?

A. I have a warehouse and part of them go to the warehouse and part of them go to my home.

Q. Where is your warehouse located?

A. My warehouse is located in the south end of town.

Q. At Oxford, Iowa?

A. At Oxford, Iowa.

Q. And with what regularity or frequency do you get shipments from Winona, Minn., to Oxford, Iowa?

A. Well, I get about oh, 7 to 10 loads a year.

Q. Does those come in in truck——

A. It varies in the time of the year. In January I had 2 loads. There will be another load the latter part of this month.

Q. Are those truckloads or carload?

A. Truckloads.

[fol. 542] Q. Do you have any less-than-truckload shipments come in?

A. Very, very little. Not any more than I can help.

Q. But do you occasionally have to replenish your stock?

A. Once in a while.

Q. What transportation service have you been receiving on those shipments from Winona, Minn.?

A. Well, for the last 8, 9, or 10 months, it is just hard to tell who is going to bring them in. I never know.

Q. What service did you have before that?

A. Rock Island Motor always.

Q. How was the Rock Island Motor Transit service?

A. Very, very good.

Q. Now, you said the last few months it has been hard to tell how you get it, is that right?

A. That is right.

Q. What experience have you had with regard to any particular company other than Rock Island Motor Transit Company bringing in your shipments?

A. I always order my orders shipped by Rock Island Motor, but other companies have brought the loads in and it is usually several days later than what my Rock Island Motor shipment would come in.

Q. You understand that the Rock Island Motor Transit Company at present is limited in the size shipments it can handle?

A. That is right.

[fol. 543] Q. What company particularly have you had any experience with where there has been any delay or anything of that nature?

A. I have had Des Moines Transportation, Cordle, and a company from Cedar Rapids has brought loads in there which I have got pretty good service from.

Q. What company is that?

A. Gateway.

Q. Have you had any experience where it has been held over or delayed by Gateway?

A. This last load I had, Gateway called me and said they had in Cedar Rapids for me and wanted to know what to do with it. I says, "I don't care what you do with it; I

want the merchandise. I am waiting for it. The customers are waiting for it." They said, "We can't hardly bring it down." I said, "Call Rock Island Motor." They said, "We have, but they have refused it." They said, "What will we do with it?" I said, "Get the merchandise down here to me. That is your job, not mine."

Q. Do you know whether Gateway has any authority to run into Oxford?

A. I don't know.

Q. You have never seen their trucks there on the streets at any time, have you?

A. No; you never see them before.

Q. Now, Oxford is located off U. S. highway 6, is it not?

A. That is right.

[fol. 544] Q. About a mile and a half south?

A. Just a mile.

Q. Just a mile. What size are these loads that you have shipped in from Winona, Minn.?

A. From 20,000 on up.

Q. And state whether or not, so far as your business concerned, if there is a need for service by the Rock Island Motor Transit to handle truckload shipments into your place of business from out-of-State points and particularly Winona, Minn.?.

A. Yes; it is very necessary, I would say.

Q. Do you know of any other company that would provide you the regularity and quality of the service that you did receive from the Rock Island Motor Transit Company?

A. I wouldn't know where they would be located.

Q. By the way, how did you get that shipment down from Cedar Rapids.

A. Gateway boys brought it down and I was sure glad to have them do it because I had customers in the country waiting for the merchandise and that merchandise, they had to have it.

Q. You don't know whether they had authority to do it or not, but they finally did, is that right?

A. He told me, "Gosh, we didn't know what to do. We had to get it out of there, and we knew you needed it."

Mr. Nolan: I think that is all.

Exam. Carpenter: Cross-examine.

[fol. 545] Cross examination.

By Mr. Fowler:

Q. Does the Rock Island Railroad serve Winona, Minn.?
A. I don't believe so.
Q. Your shipment requires an interchange between carriers, doesn't it, from Winona?
A. You mean if a load would leave Winona, Minn., it would have to be reloaded on another truck before it is brought to my place?
Q. Not necessarily reloaded, but it would have to be handled by two or more carriers, wouldn't it?
A. Yes.
Q. So no matter what you did, you would have to have some other carrier originate it at Winona and turn it over to the Rock Island Railroad?
A. That is right.

Mr. Fowler: That is all.

Redirect examination.

By Mr. Nolan:

Q. Mr. Scheetz, originally, do you know whether or not Gateway originated the shipment and then turned it over to Rock Island Motor Transit to deliver to you? Do you have any recollection of that?
A. Gateway picks the load up at Winona, Minn., and brings it to Cedar Rapids, but what I want is something to get it from Cedar Rapids to Oxford.
[fol. 546] Q. They would turn it over to Rock Island before this limitation of service, is that right?
A. That is right.
Q. And I believe the Rock Island Motor Transit is the only company that has authority in Oxford and Gateway has authority to Winona.
A. Gateway has a big office there in Winona.

Mr. Nolan: That is all.

Exam. Carpenter: Anything further, Mr. Fowler? You are excused.

(Witness excused.)

VICTOR F. NIEBUHR was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you give us your name, place of residence, and occupation, please?

A. Victor F. Niebuhr of Oxford.

Q. Where do you live, Mr. Niebuhr?

A. In Oxford.

Q. What is your occupation?

A. Hardware and implement business, Oxford Hardware and Implement Company.

Q. How long have you been so engaged?

A. 11 years.

Q. And you handle a general line of hardware, do you not?

[fol. 547] A. Yes.

Q. Are you the successor of the Scanlon Hardware?

A. There was one man between. Van Buren was in there for a short time.

Q. I believe you have the only hardware line in Oxford, do you not?

A. Yes; that is right.

Q. How big a town is Oxford?

A. Around 500.

Q. Oxford is located about 15 miles west of Iowa City, is it not?

A. Approximately.

Q. And off U. S. No. 6?

A. That is right.

Q. You however do have a paved highway from U. S. No. 6?

A. Fortunately.

Q. Now, what implement line do you handle, Mr. Niebuhr?

A. We have the G. and D. elevators of Streator, Ill., and the Dunham line, Mansfield, Ohio.

Q. What do you mean by the Dunham line?

A. They build culti-mulchers, rotary hoes, disks, and harrows, and we have Turley seeders out of—they are shipping them now from a distributor here in Des Moines. They are made in Illinois.

Q. You don't handle any tractor or plow line?

A. Not any more. I sold the International Harvester [fol. 548] line to Zimmerman last year.

Q. These other farm implements are generally used in that community by the farmers?

A. That is right.

Q. They are what you might call special lines not made by the regular farm implement company who manufacture tractors and plows and things like that?

A. That is right.

Q. Now, Mr. Niebuhr, you have these out-of-State points. How have these shipments been coming into your place of business?

A. Rock Island Motor has been taking care of it very well.

Q. Do you have any other truck line or motor carrier service into Oxford other than Rock Island Motor Transit?

A. I haven't seen them.

Q. What are the ordinary size of your shipments?

A. We have a lot of drop shipments, local l. t. l.

Q. They are from these out-of-State points you have referred to?

A. Yes.

Q. Where does your hardware come from?

A. Janney-Semple-Hill, Minneapolis.

Q. Now, what are the average size of your shipments insofar as these special farm lines are concerned?

A. Well, in the hardware, most of those shipments would run under 5,000 excepting wire, of course, or fencing line and baling wire. That runs usually heavier than 5,000 pounds.

[fol. 549] Q. Now, how about these farm elevators; do they run over?

A. Yes. They are truckloads usually.

Q. Then come in in larger quantities?

A. Large quantities; that is right.

Q. Now, Mr. Niebuhr, do you have occasion to have shipped in then shipments in excess of 5,000 pounds?

A. Yes; we do occasionally.

Q. And the fact that the Rock Island Motor Transit has been restricted to 5,000-pound shipments, has that had any adverse effect on your business?

A. It certainly will on those shipments when I need them.

Q. Do you know of any trucking agency that would provide that service to Oxford?

A. No; I don't.

Q. Shipments in any quantity, as a matter of fact?

A. No; I really don't. I wouldn't know who to ask to bring it in.

Q. What has been the calibre of the service of the Rock Island Motor Transit in and out of Oxford so far as your experience has been?

A. Well, that is the nice part about it, when you can get a shipment brought in there six times a week or five times a week, pardon me, that is really service, and that is what we are looking for, is that quick delivery and in the daytime when we are there to put it in our warehouse.

Q. You have competitors no doubt in Iowa City and [fol. 550] Ma.engo and even at Homestead, do you not?

A. Oh, yes. We need fast shipments because that helps give us better service.

Q. And Oxford is located in a typical Iowa farm community, is it not?

A. Yes.

Mr. Nolan: That is all.

Exam. Carpenter: Mr. Fowler.

Cross examination.

By Mr. Fowler:

Q. Does the Rock Island Railroad have an agent at Oxford?

A. Yes; they do.

Q. In connection with your rail shipments, how do you handle that? In other words, I presume you are the same as the rest of these fellows. Shipments, no matter whether they are billed Rock Island billing or Rock Island Motor Transit billing, they all come in on the same truck, don't they?

A. I don't think that there is a local freight line through there; I mean a daily route on the rail, so no doubt they would bring it up from Iowa City by truck.

Q. That is what I mean. No matter whether it is Rock Island Railroad freight or Rock Island Motor Transit freight, it comes to you in the same truck, doesn't it?

A. Yes.

Q. And you deal with the local Rock Island agent at Oxford?

[fol. 551] A. On rail shipments, he comes up and collects his bills.

Q. And I presume your heavy stuff comes in by rail car?

A. I haven't had a rail shipments now for some time.

Q. But there is no local rail service on l. c. l. shipments into your town?

A. I don't think so.

Q. It is all handled by truck?

A. Yes.

Q. Irrespective of whether it is railroad freight or motor carrier freight?

A. I think they deliver it to our door for the rail either from Iowa City or from the depot, I don't know.

Q. In other words, the Rock Island Motor Transit then delivers freight to your door even though it may be rail freight?

A. Yes.

Mr. Fowler: That is all.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Nolan:

Q. Do you have any recollection upon the number of

shipments that come in on rail billing as against motor truck billing?

A. It is practically all motor truck billing now.

Q. And do you specify the way it comes?

A. Motor truck always.

Q. You specify motor truck?

[fol. 552] A. Yes.

Q. Is that specification honored by the shipper?

A. Yes.

Q. And by the company?

A. In fact, most of our wholesalers like to find the quickest way of delivery, too, and they usually cooperate with us in finding the quickest way.

Mr. Nolan: That is all.

Exam. Carpenter: Any re-cross, Mr. Fowler?

Mr. Fowler: No.

Exam. Carpenter: You are excused, sir.

(Witness excused.)

H. H. Stevens was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Give us your name, Mr. Stevens, place of residence, and occupation.

A. H. H. Stevens, John Deere Plow Company, traffic manager, Moline, Ill.

Q. How long have you been so engaged, Mr. Stevens?

A. As traffic manager, 11 years.

Q. And what experience in addition to that have you had in traffic work?

A. Seven years with the general company, Deere and Company, traffic besides that.

[fol. 553] Q. That has been 18 years in the traffic department of the John Deere——

A. That is right.

Q. —organization. Has all that been at the Moline plant?

A. At the Moline plants, let's put it that way.

Q. Plants all right. Now, just tell us what jurisdiction you have in your work as traffic manager of the John Deere Plow Company; just what phase of the traffic do you handle?

A. We handle to three fourths of Iowa, particularly in this area here, up to Stuart on highway 6 from all of our plants which are located at Moline, East Moline, Horicon, Wis., Syracuse, N. Y., Yakima, Wash., Los Angeles, Calif., Ottuma, Iowa, Waterloo, Iowa, to 196 dealers.

Q. In the area that you supervise the traffic for the various companies?

A. That is right, in Iowa.

Q. Now, when you speak of the John Deere companies, you are referring to separate departments of the parent company, is that right?

A. That is right. Deere and Company is the general holding company and the John Deere Plow Company is the sales agency for all the factories, and of course we have seven factories in East Moline and Moline and those various other points I have listed, Ottuma, Waterloo, and so forth.

Q. Now, Mr. Stevens, you are familiar with the applica- [fol. 554] tion on hearing here and the territory involved, are you not?

A. Yes, sir.

Q. Would you state what interest this application has and the service proposed here has to your company in taking care of your dealers?

A. Well, it is the only service that we have really got at the present time to some of these smaller dealer points. Now, we have a lot of lines that make the Tri Cities and of course there is a lot of lines that would accept freight to Des Moines, but they will not accept shipments on a peddle run, which is our main shipments. I mean they are going to dealer points.

Q. Mr. Stevens, there are not very many tractors or parts or implements used in the City of Des Moines, are there?

A. No; not very many, but we have a warehouse here.

Q. I mean within the corporate limits of the city.

A. That's right.

Q. In other words, the farm implements are used out in the agricultural area?

A. That is right.

Q. What is the fact as to whether or not the John Deere Company has a local dealer in virtually every hamlet and village and city and town in the State of Iowa?

A. I would say that in almost every city and hamlet, as you say, we do have a dealer.

Q. Take along highway No. 6 going west from Davenport, [fol. 555] do you have a dealer at Walcott?

A. We have one at Walcott; yes. We have one at Durant. We have one at West Liberty. Let's take a look at the map here.

Q. Of course, you have one at Iowa City?

A. Iowa City. Cedar Rapids.

Q. How about down at Kalona?

A. Marengo. Kalona, yes.

Q. How about Wellman?

A. Wellman, yes. Brooklyn, Grinnell, Newton, Colfax, and Ivy.

Q. How about west of Des Moines?

A. We have dealers all the way across. I mean our jurisdiction ends at Stuart.

Q. Yes. Do you include Stuart in your territory?

A. No; that is Omaha territory.

Q. That is Omaha territory?

A. Yes. There is Dexter, Dallas Center. Of course, that isn't on 6, but it is just right above.

Q. You say that you can get service to such key points, or overhead service to such points as Des Moines and Omaha?

A. That's right.

Q. But it is service to the intermediate points?

A. That is what we want.

Q. Do you know of any company other than the Rock Island Motor Transit Company that provides a regular daily service from the Tri-City area along U. S. highway No. 6——

[fol. 556] A. No, sir.

Q. —to these peddle or small towns?

A. No, sir.

Q. Do you know of any company that serves the towns of Kalona and Wellman?

A. No, sir.

Q. And your territory also includes points north of Des Moines, does it not?

A. That is right.

Q. And south of Des Moines?

A. That is right.

Q. State whether or not you have had occasion to make shipments by the Rock Island Motor Transit Company from the Tri Cities through the Des Moines gateway both north and south on the Rock Island Motor Transit?

A. We have.

Q. State whether or not from the interest of your company and the dealers you serve if it is necessary for a continuation of the same type and character of service that the Rock Island Motor Transit performed prior to any limitation or restriction?

A. It is, definitely.

Q. From your experience, Mr. Stevens, do you have an opinion in regard to the necessity of a carrier having overhead service and authority to serve as well as local service?

A. Certainly. They should be able to have the overhead [fol. 557] points just as well as the peddle points.

Q. Have you seen truck lines go and come during the past 18 years?

A. Yes; I have seen——

Mr. Fowler: Just a moment, what is that?

Mr. Nolan: I asked him if he has seen truck lines come and go during the past 18 years.

Mr. Fowler: Read the last question, will you, please?

(Question read.)

Mr. Fowler: Objected to as immaterial.

Exam. Carpenter: Objection sustained.

By Mr. Nolan:

Q. Then as I understand your testimony, Mr. Stevens, you feel that it is necessary for the continuation of a

local service that the carrier have the right to haul overhead service?

A. That is right.

Q. And how about in regard to restrictions in volume of shipments, do you have an opinion on that?

A. Yes; I do. I don't think there should be any restriction, to tell the truth about it. It works a hardship on the shipper and the dealer both. In our line of machinery, for instance, if a dealer has got five grain drills coming, each one of them weighs 2,000 pounds apiece; all right, at the present time, with the restriction and everything, we have got to break it down into three or four bills of lading, and it is costing the dealer money; rather than to be able to get a 10,000-pound rate, he is paying a regular [fol. 558] l.t.l. rate on that stuff.

Q. Are these people willing to pay that additional rate in order to get the service?

A. They don't like it, but they are getting the service. They are paying it, but they don't like it.

Q. When you say it imposes a burden upon the shipper as well as the receiver, do you have occasions where you have shipments going out, smaller items to the same dealer in connection with bigger items?

A. Definitely.

Q. So that if you had a limitation on a carrier you would have to ship the big items by one carrier and the smaller items by another?

A. No; we don't do that. We are using Rock Island Motor Transit service. We break the darned things down. We make three bills of lading instead of just one.

Q. Why do you do that?

A. Because of the restriction.

Q. No, but I mean do you do that because there isn't any other service available?

A. That is right, outside of rail service.

Q. What would you say would be the average size shipments that you make into this territory?

A. Oh, that can run from a hundred pounds up to 20,000 pounds.

Q. And that is year-around, isn't it?

[fol. 559] A. That is year-around, 12 months a year.

Q. Now, do you have occasion to have shipments from the territory back to your plant?

A. Yes, sir.

Q. For replacement?

A. Yes; we do, and we have what we call return-goods proposition where we recondition the machinery and then send it back to the dealer again.

Q. Insofar as assembled units such as a tractor or a combine, those go out already set up, do they not?

A. I wouldn't say they were completely. The tractors do, yes, but not combines. They have to be assembled at the dealer's place.

Q. How about cornpickers?

A. Cornpickers is just about the same thing as a combine. They have to be assembled.

Q. They go out knocked down, do they?

A. That is right.

Q. And then they can move on ordinary motor carrier lines?

A. Oh, yes; cornpickers can.

Q. What will a cornpicker weigh, a 2-row model?

A. A 226 weighs pretty close to 2,100 pounds.

Q. A cornpicker?

A. Yes.

Q. Weigh more than that, won't it?

[fol. 560] A. No, sir.

Q. How about a combine?

A. Combine, yes. Combines will run around 5,000 pounds. In fact, we have got some combines that will weigh more than 5,000 pounds.

Q. Do you put out a combine with a power unit on it?

A. Yes, sir.

Q. One of those so-called mounted combines will weigh more than that?

A. Self-propelled?

Q. Self-propelled.

A. Yes.

Q. What will they weigh?

A. They will run around 8,000, 8,500. All depends on how it is equipped.

Q. Is there a number of cornpickers and combines shipped into the territory served by the Rock Island Motor Transit?

A. Oh, yes.

Q. What effect would it have upon your company and upon your dealers in this territory if the Rock Island Motor Transit Company was required to cease serving this territory?

Mr. Fowler: Just a moment. Objected to as immaterial, for the reason that it assumes a fact not established in this record.

Exam. Carpenter: Objection overruled. Answer.

The Witness: May I have that question again?

[fol. 561] Exam. Carpenter: Read the question, please.

(Question read.)

A. It would just mean that some of our dealers wouldn't even have truck service, period.

By Mr. Nolan:

Q. You say you know of several trucking companies that operate an overhead service between the Tri Cities and Des Moines and Omaha and points like that?

A. Yes, sir.

Q. Do you know of any trucking company that is giving a regular local service to all points between the Tri Cities and Omaha, including all these points?

A. No, sir; there is not.

Mr. Nolan: You may cross-examine.

Exam. Carpenter: Mr. Fowler.

Cross-examination.

By Mr. Fowler:

Q. What did you mean to say, that if you didn't have the Rock Island service as it is now, you wouldn't have any truck service?

A. You wouldn't have, at some of the smaller points.

Q. What is the difference now between the service that they are presently authorized to furnish under their pres-

ent authority and the service they hope to render under the application pending here, so far as you are concerned?

A. If they have to make it a rail subsidiary, we are going to have to bill stuff on the rail, and after all we want motor [fol. 562] truck service to those points. We don't want rail service.

Q. Do you make any distinction between motor truck service generically and motor truck service physically? In other words, that is all going to be handled on motor truck; you understand that?

A. It can and it can't. We have had——

Q. Just a moment.

Mr. Nolan: Just a minute. Let the witness finish.

A. We have had a little experience before on what we call coordinated service. We don't want any coordinated service or making any service subsidiary to a rail service.

By Mr. Fowler:

Q. Well, now, you are talking about two things. I am talking about the service. You are here complaining particularly, as you have before, about the inability to get into these smaller places.

A. That is right.

Q. It is service that is your first concern?

A. That is right.

Q. Now, you understand that as far as the service is concerned, the Rock Island Railroad now has the authority to furnish that service?

A. The railroad does, yes, but we do not want rail service. We are after truck service to those points.

Q. What do you mean by truck service?

A. Overnight service to the dealer's place of business. [fol. 563] Q. The Rock Island Railroad has that authority now, doesn't it, in conjunction with the Rock Island Motor Transit, as far as service is concerned?

A. Rail service does not definitely mean it is going to move by truck.

Q. The Rock Island Railroad are now moving it by truck, aren't they?

A. I wouldn't say all the time, no.

Q. They are to these smaller towns; you know that, don't you?

A. No; I wouldn't say I do definitely know they are moving it by Rock Island Motor truck.

Q. Aren't you familiar with the fact that there isn't any way freight service today to any of these little towns by rail car?

A. Yes. At Kalona or Wellman, there is what you call a way freight; yes.

Q. Kalona and Wellman. How about the towns of——

A. Marengo, Grinnell.

Q. How about Oxford and Ladora?

A. Oxford, I do not have a dealer at Oxford or Ladora. I am not familiar with them.

Q. How about Walcott?

A. That is handled by motor truck.

Q. As a matter of fact, isn't this a fair statement, that as to points between Iowa City and Davenport served by the Rock Island Railroad, all deliveries in there of less-[fol. 564] than-carload weight are by motor truck?

A. I wouldn't say that; no.

Q. Do you know what authority the Rock Island Railroad has now in connection with its subsidiary, the Rock Island Motor Transit Company?

A. I think I am familiar with it; yes.

Q. What is your understanding of it? Now, let's take a shipment that is moving from your terminal at Moline to one of these small points that you are complaining about. Let's take Colfax, Iowa.

A. Yes.

Q. Now, at the present time that would undoubtedly move to Des Moines and then be peddled back to Colfax by truck, wouldn't it?

A. I don't say it would; no.

Q. How would it?

A. If that shipment is routed by Rock Island Motor Transit, it shouldn't be even brought into Des Moines and peddled back. It should be peddled on the way up.

Q. Well, of course, I suppose we will develop that later on, but you still, no matter whether you tender this to

the Rock Island Railroad or whether you tender it to the Rock Island Motor Transit, it still reaches its destination on the same truck, doesn't it?

A. I wouldn't know. I am not that familiar with their operations.

Q. That is why I was inquiring. From a service stand-
[fol. 565] point, as I understand it, the Rock Island Motor Transit Company is a truck subsidiary of the Rock Island Railroad to furnish the service you are talking about and under its present authority, and I am wondering if you are aware of that.

A. I am aware to this effect, Mr. Fowler, the Rock Island Motor, under the present operating authority that they have, whether it is on temporary basis or not, they are still operating as a common carrier and it does not have to be on rail billing, but if we make it subsidiary to the rail, it is going to have to be on a rail billing and we are, as a shipper, going to have to take the possibility that that is going to be loaded into a trap car and switched in here and then peddled out. That is what we don't want.

Q. That is what I want to develop. Now, at the present time I believe I am correct in saying that as far as the service is concerned, the Rock Island Railroad through its truck subsidiary, the Rock Island Motor Transit Company, can now perform the service to these small towns that you say you must have in the distribution of your products, the only difference being it would have to be on rail billing instead of on truck billing.

A. The possibility it will be loaded in a trap car and sent to one junction point and then peddled out of there, and that is what we don't want.

Q. That would be up to the Rock Island Railroad how they handled it.

[fol. 566] A. That is their operating. The shipper can't govern that.

Q. We have had plenty of testimony here and I assume you have heard it. All of these fellows on the stand testified that the rail-billed freight and the motor-truck-billed freight is in the same truck.

A. That can be. I don't know.

Q. So, as far as the physical service is concerned, the

Rock Island Railroad now has the authority through its truck subsidiary, Rock Island Motor Transit Company, to give you the service that you say you need, the only exception being it would be on rail billing instead of on motor carrier billing.

Mr. Nolan: Now that is a misstatement——

Mr. Fowler: Now, just a moment. Let me examine this witness. You get in when you are supposed to.

Mr. Nolan: We certainly have a right to object to improper cross-examination.

Exam. Carpenter: You do; yes.

Mr. Nolan: And particularly when it is a misstatement of the record.

Mr. Fowler: I think, Mr. Examiner, that Mr. Nolan ought to be required to make his objection in the proper form and so we will have some sort of a record.

Mr. Nolan: I object to the question as improper cross-examination and not a proper statement of the record.

Mr. Fowler: Now, will you read the question, please?

[fol. 567] (Question read.)

By Mr. Fowler:

Q. Is that your understanding of the situation?

Exam. Carpenter: Objection overruled.

A. No. As I stated once before, Mr. Fowler, the shipper is going to take a chance, if this is going to be on rail billing, of having that go into a terminal point in a trap car and that trap car can take as long as a week to get in and out of these yards, and then be broken down and then distributed, and that is not what we want. That is not what we are going to get, I hope.

By Mr. Fowler:

Q. If it should develop when we get through with the record in this case that the Rock Island Railroad, in combination with its subsidiary, the Rock Island Motor Transit Company, is going to operate so that the service into all these small towns is by truck, irrespective of whether it is

on rail billing or motor truck billing, what difference would that make?

Mr. Howland: That is objected to because of the key-point restriction imposed on the permanent Rock Island Motor Transit operating authority. Such service could not be performed to all points in Iowa. The question assumes facts not shown in the record. It is argumentative in form, and it is not proper cross-examination.

Mr. Fowler: I think that is an improper objection on the part of counsel. It is a speech, and I think the examiner ought to insist that his objection is made in an orderly manner.

Now, what is the question, please?

[fol. 568] Mr. Howland: Is there a ruling?

Exam. Carpenter: Read the question and see if he can reframe the question.

(Question read.)

Exam. Carpenter: Better reframe it, Mr. Fowler.

Mr. Fowler: Well, I don't know that I can reframe it, Mr. Examiner.

Exam. Carpenter: You have got your key-point restrictions in there.

Mr. Fowler: Well, let them develop that on cross-examination. I can't reframe it.

Exam. Carpenter: I will sustain the objection.

Mr. Fowler: That is all.

Redirect examination.

By Mr. Nolan:

Q. Mr. Stevens, are you familiar with the key-point restriction imposed upon the permanent authority of the Rock Island Motor Transit?

A. Yes, sir.

Q. As a matter of fact, those restrictions mean that the Tri Cities and Des Moines and Omaha, you can't move between two or through more than one by motor truck. What effect would that have upon your company's ability to serve its dealers?

A. Well, I mean after all at the present time that shipments from Syracuse and Horicon, Wis., Van Brunt Company up there in Horicon, Wis., you can't ship by Rock [fol. 569] Island Motor to those points on account of that.

Q. Those are affiliated companies with your company?

A. That is right; those are our factories.

Q. You started to say something about you had some experience with so-called coordinated rail-truck service. Where was that?

A. Well, that has been back, I would say, 1941, 1942, where we would have goods come in, say, from Horicon, Wis., and be turned over to the Rock Island Motor at Chicago and instead of being loaded on a truck they used the coordinated service of a trap car and it would bring it into, say, Des Moines.

All right, you get down here in some of these yards and you get involved there. It takes sometimes 2 and 3 days to get that car broken down.

Q. What is the fact as to whether or not if a shipper or I mean one of your dealers out in the territory specified that your company ship by rail a shipment from Moline to a point here in Iowa and you honored his designation, who would you contact for that shipment? Would you contact the Rock Island Motor Transit or Rock Island Railroad?

A. Rock Island Railroad.

Q. And who would handle the billing?

A. The rail agent himself.

Q. And would that then have to——

A. His billing clerk, let's put it that way.

Q. Would that shipment have to go through the rail depot?

[fol. 570] A. Yes, sir.

Q. And then be turned over to the Rock Island Motor Transit, is that right?

A. I wouldn't know. As far as we are concerned, rail, as I have already tried to point out, we don't know whether they are going to load into the car or put it on Rock Island Motor. There is no way a shipper has got to know.

Q. From your experience, would a so-called coordinated rail and truck movement whereby the freight would have

to move on rail billing and have to move in accordance with certain key-point restrictions, would that be an adequate service for your company?

A. No, sir.

Q: State whether or not your company needs the service of the Rock Island Motor Transit Company as it was before there was any limitation or modification.

A. We definitely do want it.

Mr. Fowler: That is objected to for the reason it is repetition.

Exam. Carpenter: It is repetitious.

Mr. Nolan: I think that is all.

Exam. Carpenter: Objection sustained. Is there any recross?

Mr. Fowler: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

[fol. 571] Exam. Carpenter: We will have a recess for 5 minutes.

(Short recess.)

CARL MOERSHEL was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you state your name, place of residence, and occupation, Mr. Moershel?

A. Carl Moershel, residence is Homestead, and I work for the Amana Society as accountant, internal auditor, insurance man, and general adviser, I guess you would call it.

Q. Now, you say you are associated with the Amana Society.

A. That is right.

Q. Just briefly for the record state what the Amana Society is.

A. It is a corporation which owns and operates approximately 25,000 acres of land and some 30 businesses besides the farms that are located on that land.

Q. And is the Amanas divided up into what you would call villages or towns?

A. That is right. There are seven villages. These are Homestead, Amana, East Amana, Middle, High, West, and South Amana.

Q. What towns are located on U. S. highway 6?

A. Homestead and South Amana.

Q. What is the population of Homestead village or town?

A. Oh, it is approximately 220.

Q. And South Amana, is it approximately the same size?

[fol. 572] A. That is right.

Q. What business enterprises do you have at Homestead?

A. A feed mill, a lumberyard, general store, implement store, a wood-working factory, meat market, restaurant, sandwich shop, gas station, and the farm department of the Society, of course.

Q. What business enterprises do you have at South Amana?

A. There are two general stores, a bakery, a gas station, sandwich shop, meat market, and also a farm department.

Q. These stores and business enterprises, state what is the fact as to whether or not they sell to the public as well as to members of the Society.

A. Oh, yes. They sell to whoever comes into the store. They depend, particularly the Homestead store, on the farming area around Homestead.

Q. And those stores which you have enumerated in Homestead and South Amana, they handle a line of merchandise similar to merchandise handled in other farm communities?

A. Yes. The stores in South Amana are largely grocery stores. They handle some dry goods and odds and ends, but the stores at Homestead handle just about every kind of merchandise that is saleable.

Q. Everything that will resell they sell, is that right?

A. That is right.

Q. Now, Mr. Moershel, you are familiar in a general way,

are you not, with the operations of the Rock Island Motor [fol. 573] Transit through Homestead and South Amana? A. Yes; I believe I am.

Q. And insofar as interstate shipments are concerned into Homestead handled by the Rock Island Motor Transit, would you tell us what those shipments are and where they come from? I am talking about out-of-State shipments.

A. Most farm implements and parts come in from out of State that are sold there at the store, and they would come from Minneapolis or Hopkins, Minn.; also from Moline, Ill., and Morton, Ill. I believe those are the chief points.

Q. In your auditing and your position with the Society there, are you familiar with what transportation service and what company handles the shipments from Moline and Illinois points to Homestead, particularly the farm implements and parts?

A. It is almost exclusively Rock Island Motor Transit.

Q. Do you know of any other company that serves Homestead from Illinois points other than Rock Island Motor Transit, particularly Moline and points in the Tri-City area?

A. There may be other carriers, but if there are we don't use them. Now, there is a carrier out of Chicago, Hawkeye Motor Express, we use them quite a bit. They bring the merchandise into Cedar Rapids and from there Smitty brings them into Homestead. That is A. W. Schmidt.

Q. Do you have a local carrier from Cedar Rapids to the colonies?

A. Schmidt is the one.

[fol. 574] Q. I am talking now primarily about Moline and the Tri-City area. Is there any other carrier that has been serving Homestead and the farm implement store there?

A. None that I have seen on the freight bills.

Q. What is the frequency of the service of the Rock Island Motor Transit in and out of Homestead?

A. It is just about every day. Once in a while road conditions have something to do with it. The Rock Island Motor Transit usually pulls in with a semi and roads in Homestead are not always the best, so they may have trouble coming into town or getting to the point of delivery

at the store or their feed mill or lumberyard, so it may not be possible for them to come in on a particularly bad day. Other than that, they are in town just about every day.

Q. Well, highway No. 6 runs at the west edge of Homestead, does it not?

A. Yes, sir; it runs parallel to Homestead.

Q. But the implement store and the general store and the lumberyard, those are located 2 or 3 blocks or so away from the highway?

A. They are off the highway, that is right.

Q. State whether or not the lumberyard has any shipments come in from out of State.

A. Not too many. Most of their shipments would be lumber, of course, and they do handle nails and wire. [fol. 575] Usually they get those by the truckload.

Q. How about the hardware line?

A. Well, the store handles most of the hardware. Most of that comes in from Chicago and Des Moines and some from St. Louis, too.

Q. How long have you been connected with the Amana Society in your present position?

A. Since 1946.

Q. You were born and raised there?

A. Oh, yes.

Q. State whether or not you feel from your position with the Society that there is or is not a need for the continuation of the Rock Island Motor Transit service as they have been giving it in the past in that community.

A. There definitely is a need. There is no getting around it. We are dependent at the present time upon two truck lines as far as service in Homestead is concerned, one of them being Schmidt and the other one Rock Island Motor Transit. To cut off either of those would certainly hinder our operations.

Q. Now, the Schmidt operation is really a north-and-south operation, is it not?

A. It is largely out of Cedar Rapids, that is right.

Q. It is a local operation between Cedar Rapids and the colonies?

A. Yes. Of course, he interlines at Cedar Rapids with

other carriers, but east and west shipments, coming in from [fol. 576] the west or east, are largely Rock Island Motor Transit.

Q. Do you have an occasional shipment come in by some other carrier?

A. You mean delivered in Homestead?

Q. Yes.

A. No; except for an occasional truckload shipment. I mentioned nails and fence wire usually being bought by the truckload, and that will come on a different carrier.

Q. On a stock truck?

A. Lots of times it is a bull hauler.

Mr. Nolan: That is all. You may cross-examine.

Mr. Fowler: No cross-examination.

(Witness excused.)

ROBERT L. GAGE was sworn and testified as follows:

Direct examination:

By Mr. Nolan:

Q. State your name, please, place of residence, and occupation.

A. Robert L. Gage, secretary-manager, Iowa City Chamber of Commerce, Iowa City, Iowa.

Q. How long have you been so engaged, Mr. Gage?

A. Since April of 1946.

Q. That is the year you had a good president of the Chamber of Commerce?

A. That is right.

[fol. 577] Q. Now, Mr. Gage, state the general make-up of the Iowa City community, what industries there are, and what other institutions.

A. Well, of course, primarily Iowa City is known as the home of the University of Iowa, which is far and away our largest employer. Most recently, we have managed to have located there a Veteran's Administration hospital which is far and away our second largest employer. The

University has almost 3,800 employees, and the Veteran's hospital will probably have in the neighborhood of 5 or 6 hundred when it is fully staffed and under operation.

One of our purposes in Iowa City has been to attain an economic balance in the matter of employment of both male and female workers so that our Chamber of Commerce has been concerned over the last 4 or 5 years with getting in some rather small industries.

We know we are the home of the University of Iowa and we don't want to bring in large industries that would not be in keeping with the general make-up of the community and at the same time we know that we need male employees to make it possible to attract female employees that we need for both the Veteran's hospital and the University of Iowa hospital.

In connection with that, one of the things that we have to have is transportation. Probably two of the best examples of our success in getting new industry will be Moore Busi- [fol. 578] ness Forms, which located in Iowa City in 1948, which is a branch plant of that company, and then we have since added two other ones, Protein Blenders and also the Plumbers Supply Corporation.

Q. Now, Mr. Gage, in your work in attempting to attract new business enterprises and new businesses to the community, state whether or not the transportation facilities is important in your efforts in that respect.

A. Well, I think that that is true of any community. You have got to be able to show transportation facilities or you are immediately handicapped right off the bat.

Q. State whether or not the transportation facilities provided by the Rock Island Motor Transit Company in Iowa City is one of the important factors in approaching and interesting these enterprises in locating at Iowa City.

A. Well, there is no doubt but what one of the outstanding attractions that we have in Iowa City is our trucking facilities and, of course, the very nub of that is the Rock Island Motor Transit's interstate service.

Q. Are you familiar with the character of that service of the Rock Island Motor Transit?

A. Well, only in connection with as much as necessary with my particular job.

Q. And what has the general reputation of the service of the Rock Island Motor Transit Company been in and out of Iowa City?

A. Certainly with our own employers and shippers, it [fol. 579] has been of the very best. Maybe I should put it that I have never heard anything derogatory about the Rock Island service.

Q. Bob, state whether or not the Chamber of Commerce, which represents the business and other interests in the community took any official action upon the application of the Rock Island Motor Transit Company in this case.

A. Well on two occasions; the first, the executive board last—I can't be too exact, but it was last summer, authorized persons to speak in our behalf in a hearing at Washington, and then this month of January we have had entered in the minutes again by full action of the board authorizing myself or some other official of the Chamber of Commerce to appear on behalf of this petition.

Q. And you are so appearing here today in that respect?

A. Right.

Mr. Nolan: I believe that is all. You may cross-examine.

Mr. Fowler: That is all. Thank you.

(Witness excused.)

Howard P. Jacobs was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Give us your name, Howard, and place of residence and occupation.

A. Howard P. Jacobs, Iowa City, Iowa, employed by the Nagle Lumber Company.

Q. What is the business of the Nagle Lumber Company? [fol. 580] A. Principally retailing lumber and building supplies in the yard at Iowa City, and we also have a yard at Oxford, Iowa.

Q. You carry a general line of building supplies?

A. Building supplies, builder's hardware, cement.

Q. Farm supplies, do you, like fencing?

A. Wire and fencing that is right.

Q. How long have you been connected with the Nagle Lumber Company?

A. Since 1938.

Q. Do you have any particular title?

A. Yes. I am secretary.

Q. Of the company?

A. That is right.

Q. Does the transportation of merchandise into your places of business, both at Iowa City and Oxford, come under your supervision?

A. To a great extent. I do a great deal of the buying, the purchasing.

Q. What transportation facility has the Nagle Lumber Company been using both at Iowa City and Oxford for interstate in quantities?

A. We use truck and I specify Rock Island Motor Transit.

Q. Why do you do that?

A. Due to the service and the efficient speed with which we receive merchandise.

[fol. 581] Q. Where do those shipments from out-of-State points come from?

A. Most of them originate in Chicago.

Q. You do have other truck lines operating between Chicago and Iowa City do you not?

A. Yes.

Q. Why do you not use those facilities?

A. Our experience has been if we order material from a firm in Chicago a jobber, and specify Rock Island Motor Transit, why, it is picked up that day or the following day and we get it either that afternoon or the next day.

Q. Now, what are the size of the shipments of your company ordinarily?

A. Oh, they will range from 250 to 1,500 pounds, 2,000 pounds, some of them larger. We had occasion to want to ship a truckload of material out a couple of days ago and were unable to ship it by Rock Island Motor Transit.

Q. Where was that shipment going?

A. Chicago.

Q. What was the nature of it?

A. Asphalt shingles.

Q. And was it a back shipment?

A. It was a shipment of material we were shipping back to the manufacturer.

Q. Do you have occasion to have shipments of less-than-truckload quantities in excess of 5,000 pounds to both your [fol. 582] yard at Iowa City and also at Oxford?

A. Occasionally.

Q. To Oxford, do you have any other form of transportation other than Rock Island Motor Transit?

A. To my knowledge there is no other truck line that services other than truckload at Oxford.

Q. Are you familiar with the fact that Rock Island Motor Transit is now operating under restriction of 5,000 pounds per shipment?

A. Yes.

Q. Is that adverse and detrimental to your company's welfare to have such a restriction?

A. It has to a small extent, yes, particularly in Iowa City. Our Oxford yard doesn't get quite so many shipments of that size.

Q. State whether or not your company needs an unlimited and unrestricted service of the Rock Island Motor Transit Company from out-of-State points in and through Iowa City and Oxford?

A. We could exist without it. It would be easier with it.

Q. I mean, is it reasonably necessary to have that service?

A. Yes.

Q. I believe you said the service has been entirely satisfactory over the years?

A. Yes.

Q. You have been with the Nagle Lumber Company since the same date the Rock Island Motor Transit started to [fol. 583] operate there, isn't that true?

A. Yes.

Q. Were you there during the White Line truck days?

A. The White Line was—I don't remember any ship-

ments coming in on the White Line. I came down in 1938 and the dates——

Q. State whether or not the Rock Island Motor Transit has a local agent there.

A. Yes.

Q. Pickup-and-delivery service?

A. Yes.

Mr. Nolan: I believe that is all. You may cross-examine.

Cross-examination.

By Mr. Fowler:

Q. When you wanted to ship your shingles back to Chicago, did you find another carrier to take them?

A. Yes; I did.

Q. Your shipments, I assume, customarily are l. t. l. shipments under a thousand pounds?

A. Well, I wouldn't say they were under a thousand pounds. I would say they were under 2,000 pounds.

Q. And it is the exception when you have anything greater?

A. Well, more so than the rule.

Q. And you have an abundance of common carrier authority or service from Chicago to Iowa City, don't you, besides the Rock Island Motor Transit?

A. Not that we can get service from.

[fol. 584] Q. Well, they are there; they are available. Apparently you are sold on the Rock Island Motor Transit and you don't look much further, do you?

A. Well, when you have had considerable experience and know you can get the material promptly, why, you specify.

Q. I can't quarrel with you on that. If that is your preference, you are entitled to that, but there is other service available there between Chicago and Iowa City by other common carriers by motor vehicle?

A. I couldn't say.

Q. You don't know?

A. That is right.

Mr. Fowler: That is all.

Exam. Carpenter: Any redirect?
Mr. Fowler: Just a moment. Okay.

Redirect examination.

By Mr. Nolan:

Q. Does any other motor truck company maintain their own terminals and agents in Iowa City other than Rock Island Motor Transit?

A. I believe Watson does.

Q. Do they have an office there, an agency there, or is that merely an interchange point of equipment, or do you know about that?

A. They have a telephone number and an office there, a man that answers the telephone when I call. That is the [fol. 585] only one that I know of.

Mr. Nolan: That is all.
Exam. Carpenter: Any re-cross?
Mr. Fowler: No.

(Witness excused.)

James H. Nesmith was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Give us your name, place of residence, and occupation.

A. James H. Nesmith, and I am the manager of the Plumber's Supply Company at Iowa City, Iowa, stockholder and manager.

Q. And is that a new industry in Iowa City?

A. That is right.

Q. How long have you been located there?

A. We officially went into business within the last 12 months, but we started building the building there about a year and a half ago, I should judge.

Q. Where is your plant located?

A. Located on highway 218 south of the airport.

Q. Where did you live before you came to Iowa City?

A. In Jasper County.

Q. Were you engaged in merchandising there?

A. Yes. I am also affiliated with Iowa Machinery and Supply in Des Moines, which is a parent of our concern [fol. 586] there, but I lived in Jasper County and was affiliated with Iowa Machinery and Supply Company.

Q. Just tell us briefly the business conducted by your store in Iowa City.

A. We are plumbing and heating wholesalers, and we handle large quantities of pipe, fittings, boilers, valves, and anything that is connected with the plumbing and heating business. We ship it in and redistribute it all around through the locality, anywhere from oh, we'll say a maximum of 100 miles we go back out there; probably more often 50 or 60 miles.

Q. In other words——

A. Handle it twice.

Q. —you job or sell it to the retail trade?

A. Sell it to the plumbing and heating trade.

Q. That is what I mean.

A. Yes; that is right.

Q. Do you have any interstate shipments in your business?

A. Yes; a lot of them.

Q. Where are those shipments originating?

A. Practically all of them come from the east, Chicago, Waukegan, a lot from Ohio, Pennsylvania, Alabama, and sometimes New York State, New Jersey.

Q. What is the size of those shipments ordinarily?

A. All of those shipments are always truckload shipments, full truckload.

[fol. 587] Q. Do you have any less-than-truckload shipments coming in?

A. Yes; we do. That is right.

Q. With what regularity do you have less-than-truckload shipments coming in?

A. How do you mean?

Q. I mean is it just occasionally or would you say once a week or once a month or——

A. It would be pretty regular because—I have forgotten. I stated it was all truckload, but it isn't. We have

boilers. They wouldn't be a full truckload. We have big storage tanks and stuff like that wouldn't be full truckloads. We have quite regular——

Q. Do you have shipments in excess of 5,000 pounds but less-than-truckload——

A. That is right.

Q. —shipments?.

A. That is right.

Q. What transportation service have you been using to get these out-of-State shipments into your place of business in Iowa City?

A. We generally always use Rock Island if we can get it. We specify Rock Island.

Q. Why?

A. Well, we get better service from Rock Island and they also give us excellent pickup service. They notify us immediately when something comes in. We don't have to [fol. 588] trace anything down. My experience with Rock Island, my relations in the business way, have been excellent.

Q. When you say "Rock Island," you mean Rock Island Motor Transit?

A. I mean Rock Island motor carrier.

Q. Have you had experience with Rock Island Motor Transit prior to coming or opening your place of business in Iowa City?

A. Yes. For years.

Q. Where was that?

A. I had experience with Iowa Machinery and Supply and I also had experience with the A. Y. McDonald Company for 15 years. I was the territory man for years and I specified, clear from the time the Rock Island started in business as a truck carrier, I used them.

Q. Do you know of any other carrier, motor carrier, that is giving or has given the same type and character of service that the Rock Island Motor Transit gives to your business in Iowa City?

A. No; there isn't any.

Q. What would be the effect on your company's business if the Rock Island Motor Transit was required to cease doing business in Iowa City?

Mr. Fowler: Just a moment. Objected to as immaterial and assuming a fact that has not been established in this record.

Exam. Carpenter: Objection overruled. Go ahead and answer.

A. I would think it would have a serious effect on it [fol. 589] because I picked Iowa City as a jobbing point because I knew the connection of Rock Island Motor there, that we could get good service out and in there, both ways, and I think it would have a serious effect on our business.

Q. Do you have occasion to have shipments routed through your place of business destined to some small town dealer out in the territory? A. Yes.

Q. And particularly along highway No. 6?

A. Yes; and down to Wellman and Kalona and all those points down through there.

Q. Do you know of any carrier serving the towns of Wellman and Kalona other than Rock Island Motor Transit?

A. No; I don't know of any.

Q. Then would you have occasion to have such shipments shipped to the intermediate or small points around Iowa City by Rock Island Motor Transit?

A. Oh, yes; every day.

Q. Is that service essential to your business?

A. Absolutely.

Mr. Nolan: I believe that is all. You may cross-examine.

Mr. Fowler: No cross-examination.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Nolan: Mr. Swanholm.

[fol. 590]

CLIFFORD H. SWANHOLM was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Give us your name, place of residence, and occupation.

A. Clifford H. Swanholm. I am the plant manager for the Moore Business Forms Company.

Q. Tell us just a little bit about that for the record.

Q. About Moore Business Forms?

Q. Yes; what they do.

A. Moore Business Forms, our operation in Iowa City is part of a national organization. It has plants in many parts of the country. We are the largest business form printing company in the United States. In Iowa City we employ 60 people. However, we are a small fragment of the large organization.

In Iowa City we manufacture two general types or two, I would call them, general types of products. One is these forms for register machines, counter register machines, the type of machine where you pull the handle and get a ticket as commonly used in garages, coal yards, lumberyards, dry cleaners, and so forth.

The other type of form, in a broad sense, is a tabulating machine form such as used in IBM machines and Remington Rand machines. Also, continuous forms used in these typewriting machines.

[fol. 591] Q. How about multiple copies of freight bills and things like that?

A. Yes; multi-copy forms. Most of the tabulating forms are in multiple copies; that is, parts ranging anywhere from 2 to 12 parts interleaved with carbon paper.

Q. Now, what inbound shipments do you have, if any, in less-than-carload quantities?

A. I would say that there would be none.

Q. And how about your outbound shipments; where do they go? And how do they go?

A. Out of Iowa City, on these two categories of products, we cover the area from Montana to western Michigan and from Minnesota to Texas. Some of our forms, of course, go into eastern States even as far as Florida and Maine.

Q. How long has your plant been operated at Iowa City?

A. Three and a half years.

Q. Has the business been growing or been expanding since you have been there?

A. Yes. We have just recently put on an addition, a

hundred-thousand-dollar addition onto this building we are in. We now occupy about 23,500 feet of space.

Q. For Mr. Gage's benefit, do you contemplate further development there if time warrants and permits?

A. I would say I didn't come to Iowa City for my health. I hope so.

[fol. 592] Q. What transportation facilities has your company been using for these outbound shipments?

A. We have been using Rock Island Motor for all interstate shipments and to a lesser degree on interstate shipments the people who have shared in this traffic on out-of-State shipments are Poole, Merchants, Watson.

Q. Poole, that is Poole Transfer Company, Muscatine. That is a north-and-south operation, is it not?

A. Primarily, yes. They serve Chicago and the Twin Cities. We find them very good for those points.

Q. How about Merchants?

A. Merchants, they don't serve Iowa City too well except we have an arrangement for fast overnight delivery into St. Louis.

Q. Then how about your westbound shipments to the, say, Omaha gateway?

A. Some of them have been made by Watson Bros., but we have found their service very unsatisfactory because of their tracer service and other factors involved in the picture. They don't give as good service as these other truck lines.

Q. Would you say that Watson Bros.' service is unsatisfactory, has been unsatisfactory to points west through the Omaha gateway?

A. It has to us.

Q. Have you used the Rock Island Motor Transit into that area?

A. Yes; on a certain amount of freight.

[fol. 593] Q. How has that service been?

A. We have found them very good. We have found them excellent in almost all respects.

Q. Now, what would be the size of these outbound shipments, say, going west through the Omaha gateway?

A. They would range from 60 or 70 pounds on up to a thousand, 2,000 pounds.

Q. Would you have any necessity for any shipments in excess of 5,000 pounds in that area?

A. Only occasionally.

Q. And state whether or not if the Rock Island Motor Transit Company service was terminated in and out of Iowa City, if that would or would not adversely affect your company's business.

Mr. Fowler: That is objected to for the reason it is immaterial, for the reason that it assumes facts which have not been established in this record.

Exam. Carpenter: Objection overruled. Go ahead and answer.

A. Well, one of the prime reasons, I think, that Iowa City was selected as a point of operation is because of the excellent truck service that is available to us. I feel that it would be very detrimental to us, especially in the State of Iowa, because we sell forms to virtually every hamlet and cross-roads and town and city in the State. I don't think there is a town of any size that we can't say that we furnish someone in that town with some forms.

[fol. 594] Q. And how about this interstate operation in the west, as far as your experience with Watson was concerned; is the Rock Island Motor Transit service reasonably necessary to take care of that business?

A. We have had some representatives who have voiced objections to routing it by Watson.

Q. Do you specify your own routing or do you let your customers have something to say about that?

A. On outbound shipments, we have to specify our own routing. Very few people know enough in these small towns, know enough about traffic to say whether it will bring it in or won't bring it in.

I might add that service is one of the big factors with us. People want these things now. Overnight shipment to any point is a very important must as far as our customers are concerned. They expect us to lay these things in there over night.

Q. You have competitors in the territory served by your company?

A. That is certain.

Exam. Carpenter: Off the record.

(Discussion off the record.)

Cross-examination.

By Mr. Fowler:

Q. As I understand it, with respect to Chicago, Minneapolis, Omaha, St. Louis, you use the services of the Rock Island Railroad, Rock Island Motor Transit, Merchants Motor Freight, Poole Transfer, and other carriers?

[fol. 595] A. Yes. We do use Poole almost exclusively into the Twin Cities.

Q. You use him to Chicago?

A. And we use Poole. Poole gets the large cut on the Chicago traffic.

Q. And Minneapolis and St. Louis, is that Merchants Motor Freight?

A. St. Louis, Merchants, yes.

Mr. Fowler: That is all.

Mr. Nolan: That is all. Thank you very much.

Exam. Carpenter: You are excused.

(Witness excused.)

(A document was marked as "Applicant's Exhibit No. 13, Witness Cecil," for identification.)

Mr. Howland: At this time we would like the record to show, if the examiner please, that abstracts of the freight bills submitted by the witness Keith Cecil, showing interchange shipments between Central Transfer Company of Brimfield, Ill., and the Rock Island Motor Transit Company for the month of December 1950 have been prepared and have been designated as applicant's exhibit No. 13, and the copies of the freight bills which were submitted by Mr. Cecil are in the hearing room and have been made available to counsel for the protestants.

OFFER IN EVIDENCE

In connection with the testimony of Mr. Keith Cecil, the applicant at this time offers and introduces in evidence exhibit No. 13.

Exam. Carpenter: There being no objection, the docu-
[fol. 596] ment identified as exhibit 13 is received in evidence.

(Applicant's Exhibit No. 13, Witness Cecil, was received in evidence.)

Mr. Howland: Mr. Cole, I think maybe we can finish up your direct examination and perhaps complete your examination before we adjourn at noon.

L. L. COLE resumed his testimony as follows:

Direct examination—Resumed.

By Mr. Howland:

Q. There is one thing that I want to have the record clear on. In response to some questions by Mr. Fowler yesterday, as I recall your testimony, you testified, Mr. Cole, that the Rock Island Motor Transit Company was compensated by the Rock Island Railroad for the handling of rail freight shipments at a fixed rate per hundred pounds irrespective of mileage or the class of traffic handled.

Now, what is the situation with respect to the compensation to the Rock Island Motor Transit Company at points other than those involved in the White Line or Frederickson territory or other points outside the State of Iowa with respect to the basis on which the Rock Island Motor Transit Company deals with the Rock Island Railroad with respect to rail shipments?

Exam. Carpenter: Just a moment.

Mr. Fowler: May I inquire preparatory to an objection?

Exam. Carpenter: Yes.

[fol. 597] By Mr. Fowler:

Q. Is there a written instrument which exists between the Rock Island Railroad and the Rock Island Motor Transit covering these transactions?

A. Not that I know of.

Q. No written contract?

A. There may be. I don't know of it.

Mr. Fowler: I will ask Mr. Howland if there is.

Mr. Howland: I am not aware of any. Mr. Peterson is not here and he would be the one that would have more definite personal knowledge. My opinion is that it isn't a matter of a contract in writing.

Mr. Fowler: Of course, Mr. Examiner, if such an arrangement has been reduced to writing, this is not the best evidence.

Mr. Howland: We will produce it if it is in writing. I am asking this question to clear up a possibility that there was some misunderstanding between the witness and counsel.

Exam. Carpenter: I presume Mr. Peterson will be presented as a witness, will he?

Mr. Howland: That is right.

Exam. Carpenter: We will take it up at that time. Go ahead and answer the question.

A. The question, I believe, was concerning the rates outside of this territory. We are paid by the mile, so much per mile operated.

By Mr. Howland:

Q. Is that in connection with cases where the truck ser- [fol. 598] vice is performed in which the Rock Island Motor Transit Company has no motor carrier authority?

A. That is true.

Q. All right. Now, I was asking you at the time of the adjournment last evening, Mr. Cole, concerning a statement showing the result of operations of the Rock Island Motor Transit Company for the years 1950 and 1951. Do you have such an exhibit?

A. I have a profit and loss detail by month, for those years; yes, sir.

Mr. Howland: I will ask that the statement headed, "The Rock Island Motor Transit Company profits or Losses before Income Tax, Years 1950, 1951, and January and February 1952, be marked for identification "Exhibit No. 14."

(The documents referred to was marked as "Applicant's Exhibit No. 14, Witness Cole," for identification.)

By Mr. Howland:

Q. Mr. Cole, you have produced here a statement marked for identification as exhibit No. 14. Will you tell us what it is, by whom it was prepared, and how it was prepared?

A. It is a detail of the profits or losses resulting from the operations of the Rock Island Motor Transit Company during each month of the years 1950, 1951, and for the first 2 months of 1952. You will note that the month of February 1952 has an asterisk beside it, designated as an [fol. 599] estimated figure. That is our closest possible estimate at this time.

Q. Is that February 1952 figure accurate to the extent that from the actual operations figures reported to you, but not in the final closing of the books for that month?

A. That is correct.

Q. That is your approximate final figure?

A. That is true.

Q. Is the exhibit self-explanatory or is there anything about it that requires any particular explanation of the manner in which it has been made up; that is you show, as I understand it, in each of these columns by months for the year 1950 and the year 1951 the result of the operations of the Rock Island Motor Transit Company as a whole?

A. That is true.

Q. And that includes all of the operations of the Rock Island Motor Transit Company?

A. It does.

Q. Now, I note particularly that in the month of October 1950 there was shown a profit before income tax of $48,544-.40, whereas in the year 1951 in the same month the black figure or profit figure is $10,381.27. What is the fact as to

the best months from the standpoint of operations the Rock Island Motor Transit Company usually has during a calendar year?

A. The month of October is generally our best operating month.

Q. And why is that true?

[fol. 600] A. To the best of my knowledge, it is generally a month in which the operations are free from road conditions and also it seems that that is the month in which we carry the largest volume of freight.

Q. Now, up until the end of August 1951, were any of the months shown on the statement marked for identification as exhibit 14 periods during which the Rock Island Motor Transit Company had these restrictions as to weight limitation, and so forth?

Mr. Fowler: Now, wait a minute. Read the question.

Mr. Howland: I will withdraw the question. I think maybe it is a little confused.

By Mr. Howland:

Q. I notice in the year 1951 in the month of August a profit figure was shown and that that was immediately followed in the month of September by a red circle of $16,304-.24 on the instrument marked for identification as exhibit 14. Is there any particular explanation for that situation?

Mr. Fowler: Just a moment. That is objected to as calling for an incompetent conclusion of the witness, speculation and conjecture, matters of which he can have no personal knowledge, not being an operating——

Exam. Carpenter: Objection overruled.

A. The month of September 1951 was the first month under which we operated under the restrictions imposed in our operating authority.

OFFERS IN EVIDENCE

Mr. Howland: We will offer and introduce in evidence at [fol. 601] this time the paper marked for identification "Exhibit 14."

Exam. Carpenter: Cross-examine, Mr. Fowler.

By Mr. Fowler:

Q. Mr. Cole, are the figures that appear on exhibit No. 14 identifical with those which you have reported to the Interstate Commerce Commission?

A. They are for the entire year.

Q. In other words, the same information that you have on your exhibit 14 for the years 1950 and 1951 was reported to the Interstate Commerce Commission. I am talking about the sum figure.

A. The sum figure is the same; that is, for the year-to-date figure there.

Mr. Fowler: I have no objection to the exhibit.

Exam. Carpenter: The document will be received in evidence as exhibit 14.

(Applicant's Exhibit No. 14, Witness Cole, was received in evidence.)

By Mr. Howland:

Q. Now, Mr. Cole, have you also prepared at my request an exhibit showing the revenues derived from operations between different points on the Rock Island Motor Transit Company system by months and by various territories by months since September 1951?

A. I have.

Q. You have now produced a statement consisting of 7 pages, headed on page 1, "Rock Island Motor Transit Company Recapitulation of Total Gross Revenue Earned on [fol. 602] Motor Carrier Traffic originating at Terminal Points Listed," and on succeeding pages there seem to be comparative statements of comparable character, but with different points of origin and perhaps some variation in points of destination. This statement has now been tendered for identification as exhibit 15.

(The document referred to was marked as "Applicant's Exhibit No. 15, Witness Cole," for identification.)

By Mr. Howland:

Q. Will you, beginning with page 7 and in inverse order,

tell us the manner and method in which this series of sheets marked for identification "15" was made up?

Mr. Fowler: Off the record.

Exam. Carpenter: Off the record.

(Discussion off the record.)

A. May I say that all of these sheets are prepared from a record which we maintain of the volume of traffic moving from one point to another on our system.

Concerning page 7, that is a comparative statement, motor carrier revenues originating at Omaha, Nebr., destined to the selected points listed during the periods indicated.

By Mr. Howland:

Q. And has that been made up by periods of 2 months each?

A. That is correct.

Q. And was the first of those 2-month periods, namely, September 1 to October 31, 1951, a period during which the [fol. 603] 2,000-pound limitation was imposed?

A. That was September 1, 1951, to October 31, 1951?

Q. Yes.

A. That is correct.

Q. And then the period November 1, 1951, to December 31, 1951, was the period in which the restriction was 5,000 pounds?

A. That is correct.

Mr. Fowler: There isn't any argument about that, is there?

By Mr. Howland:

Q. All right, go ahead with your answer as to what is shown on page 7 and page 6, page 5, and so forth.

A. We have shown in each instance the amount of revenue moving from these selected points during the period September 1, 1950, to October 31, 1950, as compared to the similar period in the year 1951.

We have shown the amount of the change in the revenues earned between those points during those periods and have

also shown the percent of change. We have shown similar information for the other 2-month periods.

Q. Now, page 6 shows the revenues on freight originating at Des Moines, Iowa, destined to the similar selected points.

A. They are selected points. They aren't identical.

Q. They aren't identical points, but they are selected points?

A. That is correct.

Q. And those figures on page 6 are correct, are they?

A. They are correct, representing revenues earned on [fol. 604] freight moving out of Des Moines, Iowa.

Q. All right. Page 5 is a statement made up in similar form with respect to what station?

A. Cedar Rapids, Iowa.

Q. And page 4 is what?

A. Davenport, Iowa.

Q. To the destinations shown there?

A. That is correct.

Q. And page 3 is what?

A. That is Rock Island and Moline, Ill., to the stations listed.

Q. And page 2 is what?

A. Freight from Chicago, Ill., to the points listed.

Q. All right. Now, what is page 1? What is the purpose of that?

A. Page 1 is made up from the same basic record, but we have taken all of the motor carrier revenue originating at the points listed moving to any destination in order that the result might show the over-all picture rather than the picture at any particular destination.

Q. In other words, the information shown on page 1 of the exhibit marked for identification as No. 15 is all traffic originating at the terminal point listed regardless of destination?

A. That is correct.

Q. So that page 1 will, with respect to Des Moines, Iowa, reflect the revenues of both inter- and intrastate traffic?

[fol. 605] A. That is true.

Q. Whereas, the pages 2 to 7, inclusive, show only the revenue to selected destinations, most of which have been interstate; not all of them, but most of them?

A. Well, it is the traffic that moves between those two points.

Q. That is shown on page 2 to 7?

A. That is correct.

Q. Whereas, page 1 is all traffic?

A. That is true.

Q. And was this statement marked for identification as exhibit 15 prepared by you from your records that are maintained in the usual course of business by the Rock Island Motor Transit Company for the periods indicated?

A. They were obtained from the usual records. They were actually drawn from those records by my assistant.

Q. Were all of the pages of the instrument marked for identification as exhibit 15 prepared under your supervision and at your direction?

A. They were.

Q. And you participated in the making of this survey, did you not?

A. That is true.

Q. Do the figures shown on all pages, do they correctly reflect the results, that is, the gross revenues earned during the periods for which they are shown on all pages of the exhibit?

[fol. 606] A. That is true.

Mr. Howland: At this time we offer and introduce in evidence the pages 1 to 7, inclusive, of the instrument heretofore marked for identification as exhibit 15.

Exam. Carpenter: Any cross-examination?

Mr. Fowler: I will after we convene this afternoon. I have a few questions.

Exam. Carpenter: At this time we will adjourn until 1:30 for lunch.

(At 12 noon, a recess was taken until 1:30 p. m. of the same day.)

AFTERNOON SESSION 1:30 p. m.

Mr. Nolan: Mr. Wahl, will you take the stand?

(Witness withdrawn.)

H. H. WAHL was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you give us your name, place of residence, and occupation, Mr. Wahl?

A. The name is H. H. Wahl; Victor, Iowa, is the address. I am a partner in the retail lumber firm of Wahl and Dee.

Q. Now, in connection with your lumber business there, do you handle all building supplies?

A. We have a complete line of building materials.

[fol. 607] Q. And how about farm supplies, wire, fencing, and cribbing?

A. We have that, too.

Q. How long has your company been in business in Victor?

A. Since 1928.

Q. There were two lumberyards in Victor at one time; were there not?

A. That's right.

Q. Those are now both under the one management?

A. Yes; since 1940.

Q. Now, Victor is how large a town?

A. About 900, I believe.

Q. Do you have the regular retail establishments there in town common in any ordinary Iowa farming community?

A. That's right.

Q. Now, in regard to your supplies, I assume your lumber comes in in carload lots?

A. That is right.

Q. How about your fencing and things of that character?

A. The bulk of the fencing comes in carload lots as well.

Q. What less-than-carload shipments do you have coming into your place of business?

A. Various items, hardware, builder's hardware, sheet roofing—that is, steel roofing, paints, gates—you might say most of the odds and ends other than strictly building material come in less-than-carload quantities.

[fol. 608] Q. Do you handle the usual run of hog feeders, hog waterers?

A. We do not.

Q. You don't handle that line. I assume some other dealer there in Victor does that?

A. That's right.

Q. Where do you get your supplies which come in less-than-carload quantities, your building hardware and so forth?

A. We get hardware from various points, from St. Louis, Shapleigh Hardware Company, and from our local hardware jobbers at Cedar Rapids, Burlington, Des Moines.

Q. And how about your paints?

A. Paints come from Chicago principally.

Q. What other out-of-State origin points do you have? Do you have shipments coming in regularly to your place of business?

A. Considerable shipments of aluminum windows and related products from the Seco Steel corporation at Peoria.

Q. What transportation system has been handling and bringing to your place of business in Victor these less-than-carload quantities of freight?

A. Rock Island Motor truck.

Q. Has your company used that service over the years?

A. We have since they started service there.

Q. What has been the quality of that service?

A. The service has been excellent.

Q. Victor is on U. S. highway No. 6, is it not?

[fol. 609] A. Yes, sir.

Q. As a matter of fact, the highway runs right through the main part of town, and there are a large number of trucking companies that go through Victor, are there not?

A. Most of the major companies, I think.

Q. Now, have you had occasion to have shipments brought into your place of business by other companies, trucking companies?

A. Very rare occasions.

Q. Do any of these companies make regular stops there other than Rock Island Motor Transit?

A. None to my knowledge.

Q. And in regard to the size of your inbound shipments, does the 5,000-pound limitation interfere with your inbound shipments in any way?

A. On a few commodities it would. I think I mentioned sheet steel, for example.

Q. What would be the size of those shipments ordinarily?

A. That material has been allotted until very recently and the size of the shipment depends on the willingness of the shipper to produce.

Q. Prior to allotment, back before the war, did you have sizable shipments come in by motor truck?

A. Occasionally 6 or 7 tons of merchandise of that nature.

Q. That would come in by truck?

A. That is right.

[fol. 610] Q. Do you have some shipments today which would be in excess of 5,000 pounds?

A. Not regularly.

Q. But would you have an occasional one?

A. Yes; we would.

Q. Occasion to use such size shipments. Do you know of any motor carrier that provides or affords the same service to Victor and to your company as the Rock Island Motor Transit Company does?

A. There is none.

Mr. Fowler: I am going to object to it only as repetition.

By Mr. Nolan:

Q. What would be the effect upon your company's business at Victor if the operation of the Rock Island Motor Transit should terminate or were materially restricted?

Mr. Fowler: Just a minute. That is objected to as immaterial, for the further reason that it assumes facts not established in this record.

Exam. Carpenter: Objection overruled.

A. Why, it would certainly complicate things, everything under carload shipment. I don't know how we would get them in there with any regularity.

By Mr. Nolan:

Q. What would you say the frequency of the ship-

ments that you have coming into your place of business by motor truck is?

A. Daily.

[fol. 611] Q. And they are from these various points you have enumerated, is that right?

A. Yes.

Mr. Nolan: You may cross-examine.

Cross-examination.

By Mr. Fowler:

Q. How long has it been, Mr. Wahl, since you have had a shipment over 2,000 pounds?

A. Oh, I think perhaps about 10 days ago a large shipment of paint came in.

Q. How much would that weigh?

A. I would guess 2 ton.

Q. 4,000 pounds?

A. Yes.

Q. How long has it been since you had a shipment in excess of 5,000 pounds?

A. I can't tell you.

Q. Been a long time?

A. Well, I don't know.

Q. You must know.

A. I don't pay the freight bills.

Q. Last year or the year before that, 2 years ago; let's put it this way. I am not trying to embarrass you. Let's put it this way: A shipment in excess of 5,000 pounds would be unusual, would it not?

A. Yes.

[fol. 612] Mr. Fowler: That is all.

Exam. Carpenter: Any redirect?

Redirect examination.

By Mr. Nolan:

Q. But you have had shipments come in in excess of 5,000 pounds?

A. We have.

Mr. Nolan: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

A. U. Hauber was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you state your name, place of residence, and occupation?

A. A. U. Hauber, Victor, Iowa.

Q. What is your occupation and profession?

A. Pastor of St. Bridgets church, superintendent of St. John's school.

Q. At Victor, Iowa?

A. At Victor, Iowa.

Q. How long have you been located there, father?

A. Four years.

Q. Are you familiar with the subject involved in this case?

A. I am.

Q. And what occasion do you have to use the services of [fol. 613] the Rock Island Motor Transit Company?

A. Well, practically all of our school lunch supplies come in by Rock Island and school supplies and church supplies, practically all supplies come by Rock Island.

Q. And what is the point of origin of the various supplies?

A. New York, Chicago, Milwaukee, Galesburg, St. Louis, and outside of Kansas City, Kans.

Q. You maintain a school lunch program there?

A. We do.

Q. And also school books and supplies?

A. Grade and high school. We supply all books and all school supplies are handled directly through the school.

Q. What would you say would be the regularity of ship-

ments that you have coming into your school and church there?

A. About every 10 days to 2 weeks along there is a shipment comes in.

Q. What would be the size of those shipments?

A. They will range from possibly 2 or 3 hundred pounds up to a thousand pounds regularly.

Q. What transportation facility have you been using to get those shipments in?

A. The only one, Rock Island Motor Transit.

Q. Has that service been satisfactory?

A. It is the only service I have been able to get anything in on in any hurry at all, as far as the freight. The railroad [fol. 614] freight, I haven't been able to get hardly anything under 3 or 4 weeks' time.

Q. Have you had any experience with any other trucking companies bringing in any supplies?

A. Nobody has ever been up to solicit business.

Q. Have you ever had shipments brought in where the shipment was directed by the shipper?

A. No. I have left it to the option of some companies, but the shipment always comes Rock Island.

Q. State whether or not you need a continuation of the present service of the Rock Island Motor Transit Company.

A. We do because without that I don't know how we would get in our school supplies, our groceries, under 3 to 4 weeks' time and especially on these school lunch programs where you have to keep it up every 2 or 3 weeks, you have to have new supplies come in, and it is pretty hard to predict what the supplies are. It is our only definite means of getting things shipped in in a hurry.

Q. What is your school enrollment there, father?

A. 136.

Q. In both grade and high school?

A. Yes.

Mr. Nolan: You may cross-examine.

Mr. Fowler: No cross-examination.

Exam. Carpenter: You are excused.

(Witness excused.)

[fol. 615] JOHN DE SUTTER was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you state for the record your name, place of residence, and occupation, Mr. De Sutter?

A. John De Sutter, Victor, Iowa.

Q. You live in Victor, Iowa?

A. Victor, Iowa.

Q. What is your business?

A. I am partner in the Victor Implement and Seed.

Q. And what line of implements do you handle?

A. We handle New Idea and Dunham and then we job odds and ends of everything that way. Seed business, buy and retail both.

Q. Now, what is the origin of your implements, Mr. De Sutter?

A. Well, we get some from Des Moines, some from Sandwich.

Q. Sandwich, Ill.?

A. Sandwich, Ill., and then we get some out of Cedar Rapids, some out of Newton.

Q. Do you handle such items as tank heaters, tanks, hog waterers?

A. Tank heaters, water tanks, hog waterers.

Q. What is the origin of those?

A. We get them out of Des Moines, Waterloo, Cedar Rapids, Kansas City.

Q. What transportation facilities have you been using to get those shipments into Victor?

[fol. 616] A. Rock Island Motor.

Q. What would you say would be the average size shipment that you get in in Victor from outside the State of Iowa?

A. Oh, we have had as high as 2 and 3 inside elevators come out of Morton, Ill., for a corn crib.

Q. What would they weigh?

A. I can't tell you right offhand. They would probably run a couple of tons apiece.

Q. You have had them come in as one shipment?

A. We had as high as three a year ago at one time.

Q. How did they come in?

A. Rock Island Motor.

Q. New Idea Company, they make a line of farm implements, do they not?

A. Haying tools.

Q. Do they make a manure spreader?

A. Manure spreader, a cornpicker, side rake, mower.

Q. How about a hay baler?

A. It is in the process. It isn't out yet. They are making one.

Q. Do you know of any other facility that would bring in these out-of-State shipments to your place of business other than the Rock Island Motor Transit?

A. What do you mean, bring——

Q. Any other transportation company or truck company that would be able to bring these shipments into your place [fol. 617] of business from outside the State or within the State other than Rock Island Motor Transit?

A. We have had awful good service on Rock Island Motor Transit bringing in every day to us.

Q. My question, Mr. De Sutter——

Exam. Carpenter: Let him read the question.

(Question read.)

A. Well, as far as being able to bring it in, I suppose anybody can bring it in, but like I say, we have had good service with the Rock Island Motor.

By Mr. Nolan:

Q. The point of the question is, do you know of any other transportation company that provides or affords or offers that service that the Rock Island Motor Transit Company——

A. No; I don't.

Q. [illegible] offering you?

A. No company has ever offered it to us.

Q. Have you had any experience with any other trucking company bringing merchandise to you?

A. Just a couple of times.

Q. And when was that?

A. Oh, last fall and winter.

Q. Who was that carrier?

A. Iowa-Nebraska.

Q. Have they regularly provided service?

A. No. They picked up some freight in Kansas City and [fol. 618] dropped it off there.

Q. What were the size of those shipments?

A. They would run up a couple of hundred pounds.

Q. Was that at your request——

A. No.

Q. —or was it routed by the shipper?

A. It must have been routed by the shipper.

Q. State whether or not the service which has been provided by the Rock Island Motor Transit, so far as your business is concerned in Victor, is necessary or not.

A. Yes; it is. It has been necessary. We get repair parts from Sandwich and they have been bringing them to us every day for machinery and they have been bringing freight to us every day of the week except Saturday.

Q. Then you have a regular need for daily service, is that right?

A. Yes.

Q. Now, when you get shipments that exceed 5,000 pounds such as those three inside elevators, is that a normal thing in your business?

A. Why, not quite so; no.

Q. How frequently during the year would you require service that could handle shipments in excess of 5,000 pounds?

A. Well, we could have that most any time of the year. We have a shipment from Dunham machinery coming out. They could run more than that. It comes out a couple of [fol. 619] times a year. The same way with New Idea shipments of machinery.

Q. Where one hay baler or side rake might not exceed 5,000 pounds, state whether or not it is customary to order

more than one piece of equipment at a time in your business.

A. Why, yes; it is customary; yes. Most all of it. And on side rakes and mowers, we have five at a time.

Q. What do they weigh apiece?

A. Well, a side rake weighs, I think, 1,100 pounds.

Q. How about a power mower, what do they weigh?

A. I think they weigh 900.

Q. You say you order those in quantities of five?

A. Yes.

Q. Do you get a special discount or something, is that the reason, or is it just practical?

A. It is the way they are set up of making them. They make one line of machinery for a while and then change over to another and you take your quote at one time.

Q. Who is your district representative of New Idea?

A. Bill Coin at Iowa City.

Mr. Nolan: You may cross-examine.

Cross-examination.

By Mr. Fowler:

Q. From which point do you get these large shipments of implements?

A. Well, the elevators come from Morton, Ill.

Q. Do you handle tractors?

[fol. 620] A. No.

Q. How many of these elevators do you buy at a time?

A. Well, that depends on the cribs going up. Two years ago we sold seven. Last year we sold three.

Q. You order them two or three at a time?

A. No. They usually hold up the orders and ship them together.

Mr. Fowler: That is all.

Exam. Carpenter: Any redirect? You are excused, sir.

(Witness excused.)

JOHN PAWLAK was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you give us your name, place of residence, and occupation, Mr. Pawlak?

A. John Pawlak, Victor, Iowa.

Q. How long have you lived in Victor?

A. Oh, since 1945.

Q. What business are you in?

A. I am one of three partners in an implement business.

Q. And what line of implements do you handle?

A. Our major franchise, Allis-Chalmers.

Q. Do you handle all the allied and sundry farm items that go along with the implement business?

A. That is right.

Q. You have been in the implement business since 1945 there?

[fol. 621] A. I took up partnership, I think, in 1948.

Q. Now, are you familiar with the transportation facilities that you have at Victor for bringing in shipments from outside the State?

A. I am.

Q. What company has been handling your shipments from outside the State?

A. Rock Island mostly.

Q. Rock Island Motor Transit or Rock Island Railroad?

A. Rock Island Motor Transit.

Q. Where do your farm implement shipments primarily come from?

A. They usually come right from the factory.

Q. Where are the factories located?

A. Most of the smaller implements are made in LaCrosse, Ind.

Q. Where?

A. Indiana.

Q. In Indiana?

A. Yes.

Q. How about the Allis-Chalmers line; are those implements made in Milwaukee?

A. The tractors are made in West Allis, Wis., and combines come from Indiana. Mowers are made in Gadsden, Ala. That stuff usually comes by truck. Cultivators, for instance, are loaded about 35 to a semi truck and they are shipped to our block and from there they are distributed among six dealers.

[fol. 622] Q. And then they are taken by the local trucker to your place?

A. We have to go with our truck and go get them usually.

Q. Did you ever have any of them come in by Rock Island Motor Transit?

A. No; usually not.

Q. Where is the block they are shipped to?

A. Usually shipped to Iowa City and from there they go to Victor, Tipton, down to Kalona, Marengo, and so on.

Q. Now, what need do you have of regular motor carrier truck service in Victor so far as your business is concerned?

A. We don't use Rock Island so much for Allis-Chalmers, but like you say, the rest of the stuff that goes with the business such as replacement tires and batteries and tractor chains and oil and grease and those things come in usually by Rock Island truck.

Q. In other words, the allied or sundry items that go with the farm implement retail business is what you use the Rock Island Motor Transit service for, is that right?

A. That's right.

Q. Do those items come from outside the State of Iowa?

A. A few of them do; yes.

Q. What is the source of supply of those items?

A. Take like V belts such as used on grinders and hammermills come from Webb Belting Company in Kansas City. Henry pulley fasteners I think are made in Iowa, and [fol. 623] Yetter wheel cleaners and things are made in Iowa, but they come by Rock Island.

Q. These shipments of smaller items you have referred to that come in from outside the State, how do they come to your place of business? By what form of transportation?

A. By freight.

Q. What carrier brings them there?

A. Rock Island.

Q. Has that service been satisfactory?

A. It has been very good.

Q. Do you know of any other carrier that provides the same type of service that the Rock Island Motor Transit provides to Victor there?

A. No; I don't.

Q. State whether or not there is a need for a continuation of the Rock Island Motor Transit service to Victor so far as your business is concerned.

A. Yes; I think we need them.

Q. Did you ever have occasion to have shipments in excess of 5,000 pounds of these items come in?

A. No.

Q. So far as your machinery is concerned, that is blocked off?

A. That is usually a block proposition.

Q. And you go and get your——

A. Yes.

Q. —heavier machinery?

[fol. 624] A. Yes. That will run up several tons sometimes, but usually we send our own truck.

Q. It is for these smaller sundry items you need the Rock Island Motor Transit motor carrier service?

A, Yes.

Mr. Nolan: You may cross-examine.

Cross-examination.

By Mr. Fowler:

Q. As I understand it, your heavier machinery and farm implements, that is shipped to you by the manufacturer with trucks that he picks out; he furnished the transportation service?

A. Yes. We have to pay the freight, but we have nothing to say about who does the work.

Q. That is not Rock Island Motor Transit?

A. No.

Q. You do use the service of the Rock Island Motor Transit and also the services of other carriers in Victor?

A. We have had three stops by Iowa-Nebraska in, I would say, the last 6 months.

Mr. Fowler: That is all.

Redirect examination.

By Mr. Nolan:

Q. This Iowa-Nebraska operation, is that regular service into Victor?

A. No. They will just show up one day and say, "I have got freight for you," and we never know when they are coming.

[fol. 625] Q. You don't see them again for months, is that right?

A. That is right.

Mr. Nolan: That is all.

Exam. Carpenter: Any re-cross? You are excused.

(Witness excused.)

MANFORD A. RICE was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, please?

A. Manford A. Rice.

Q. You live where, Mr. Rice?

A. Atlantic, Iowa.

Q. Your occupation is what?

A. Agent for the Rock Island Motor Transit.

Q. At Atlantic, Iowa?

A. At Atlantic, Iowa.

Q. How long have you worked for the Rock Island Motor Transit Company?

A. About 2½ years, sir.

Q. Have you been stationed at Atlantic, Iowa, during all of that time?

A. Most of it; yes. For better than 2 years.

Q. You are assigned as a full-time employee of the Rock Island Motor Transit Company——

A. That is right.

[fol. 626] Q. —to Atlantic?

A. Yes, sir.

Q. Mr. Rice, what facilities does the Rock Island Motor Transit Company maintain at Atlantic?

A. Well, for incoming freight from the east, we have two regular semis that come in from the east.

Q. I am speaking about physical equipment maintained in town.

A. In just Atlantic?

Q. We will go into runs a little bit later.

A. We maintain two delivery trucks and a third one in the afternoon full time.

Q. One on a standby basis?

A. We use it every afternoon.

Q. Every afternoon?

A. Yes.

Q. How many pickup-and-delivery drivers do you have in Atlantic?

A. Three.

Q. Do you have a place of business there?

A. Yes, sir.

Q. Where is that located?

A. That is located at the Rock Island depot, freight depot.

Q. About how much space do you have in the Rock Island freight house to handle your business?

A. Well, I don't know the dimensions of it. I would say [fol. 627] it was about a hundred by, I think it is about 40 feet.

Q. Do you maintain your office——

A. Yes.

Q. —in the same building?

A. Yes, sir.

Q. Now, I will ask you, Mr. Rice, with respect to the service that you have into Atlantic from the west, what runs do you maintain at this time?

A. Well, from the west we have one semi come in.

Q. What time is that scheduled to arrive?

A. That is scheduled to arrive about midnight, coming into Atlantic and going back west to Omaha, it leaves about 4 in the morning.

Q. What time does that run leave Omaha, Nebr.?

A. I think it is scheduled to leave out of there, I believe it is 10:30 or 11.

Q. Is that a regular daily?

A. That is daily, 6 days a week.

Q. Six days a week?

A. Yes, sir.

Q. Now, what other service do you have from the west into Atlantic?

A. Well, that is the only one we are maintaining right at the present.

Q. Now, do you have some service into Atlantic from the east?

[fol. 628] A. Yes; we do.

Q. Describe that and tell the examiner what that service consists of.

A. We have two semis come in every morning 6 days a week.

Q. About what time?

A. Those are scheduled to arrive in Atlantic at 7 a. m. in the morning.

Q. Those come from what point?

A. Those both come from Des Moines.

Q. Is one of those what is known as the Audubon peddle run?

A. Yes, sir.

Q. What is customarily loaded into that semi prior to the time it reaches Atlantic?

A. Well, it has Audubon in the nose and then it has Exira and Brayton and then Atlantic freight filled on the back.

Q. In other words, that unit brings in freight for what you might refer to as Atlantic proper or destined to Atlantic?

A. That is right.

Q. And it also brings in the freight from the east destined to points on the Audubon branch run?

A. That is right.

Q. And these towns that you have referred to of Lorah, Brayton, Exira are small towns intermediate between Atlantic and Audubon, Iowa?

A. That is right, sir.

[fol. 629] Q. That gets in about 7 o'clock in the morning. Is any freight added at Atlantic on that run?

A. Yes. Through freight from Omaha and western points is loaded on that truck and taken north to Audubon, Exira, and Brayton, and Hamlin.

Q. And into Audubon?

A. Yes, sir.

Q. All right. Now, the other unit that you have regularly coming in from the east carries what type and character of freight?

A. Well, there is all types of freight on it. That is a 36-foot tandem and that carries all types of freight for Atlantic proper.

Q. It handles Atlantic freight, and does that run stop at Atlantic?

A. Stops at Atlantic.

Q. That brings in Atlantic proper freight?

A. Yes, sir.

Q. And terminates its run at Atlantic?

A. Yes, sir.

Q. And that is scheduled to arrive at 7 a. m., is that right?

A. Yes; that is right.

Q. How many days a week does that run operate?

A. Six days, and we also have—now, I didn't mention that before, but we also have this night truck I mentioned that comes from Omaha, comes on into Des Moines, that [fol. 630] leaves off freight for Audubon and Exira. Also, on its return trip back to Omaha that leaves off freight for Harlan, Iowa, Avoca, Walnut, and Marne, Iowa.

Q. This run that comes in from Omaha and which arrives in Atlantic shortly after midnight then departs from Atlantic going west, you say, at around 4 o'clock in the morning?

A. That is right.

Q. And that handles freight for what points west of Atlantic?

A. Well, on into Omaha.

Q. It returns to Omaha then?

A. That is right.

Q. Leaving about 4 o'clock in the morning?

A. That is right.

Q. But it passes, instead of going on U. S. highway 6, it goes up through Marne?

A. No, no; it goes back on 6. We have a run out of Atlantic for Harlan and Avoca.

Q. That is a separate run?

A. That is another run.

Q. There is a turn-around run then from Omaha into Atlantic arriving——

A. No; that goes on through to Des Moines. That is a night truck. That leaves Omaha about 11, comes into Atlantic and leaves off freight for Harlan, Avoca, Walnut, Marne, and Audubon and Exira and Brayton, and then comes into Des Moines.

[fol. 631] Q. That truck then leaves Atlantic and comes into Des Moines?

A. Into Des Moines.

Q. What time is that scheduled to leave Atlantic?

A. That I can't tell you. It comes in in the night and I don't know what time that gets all through and leaves Atlantic.

Q. As soon as the——

A. Freight is unloaded, why, it comes on.

Q. As soon as the work is done, it departs from Atlantic to Des Moines?

A. That is right.

Q. What about this run that you say goes over Iowa highway 83, serving Marne and Harlan and——

A. Walnut and Avoca.

Q. Walnut, Shelby, Avoca, Minden, and those points?

A. That leaves Atlantic at about 8 o'clock in the morning and we peddle store-door in Walnut, Marne, and Harlan and return to Atlantic.

Q. That comes back to Atlantic then?

A. That comes back to Atlantic. We use a small truck to store-door.

Q. And that performs morning delivery service?

A. That is right.

Q. To those points?

A. To the customers at those points.

Q. Is there any other service regularly maintained at

[fol. 632] Atlantic other than the runs that you have told us about?

A. No; that is the only runs that we operate.

Q. What other carriers at present other than the Rock Island Motor Transit Company maintain agents—that is, company employees—in the City of Atlantic?

A. No other carrier.

Q. No other carrier that maintains——

A. Not that maintains a company employee.

Q. There are certain carriers that serve Atlantic other than the Rock Island Motor Transit. Will you name those within your knowledge?

A. Well, Iowa-Nebraska and Watson are your main two. I think Des Moines Transit occasionally stops into Atlantic. I understand they do have right. However, they do interline a lot of stuff with us and we take it in there, but Iowa-Nebraska and Watson are the main two.

Q. What type of terminal facilities do Watson Bros. and the Iowa-Nebraska companies maintain at Atlantic?

A. Truthfully, I can't answer that. I have never been in their terminal.

Q. Do they have separate terminals——

A. No, sir.

Q. —of their own?

A. No, no.

Q. Or do they dock with a transfer company?

[fol. 633] A. They dock with a transfer company.

Q. What company is that?

A. That is Smiley Transfer.

Q. All right. How many men do you employ on the dock at Atlantic?

A. One man.

Q. One regular man?

A. Yes. I use one of my drivers. That is why I said one in just the afternoon. We use one of our drivers for dock in the forenoon.

Q. That is in addition to the one?

A. No; I have three men. Three men and I use one of them in the forenoon.

Q. At the dock?

A. Yes.

Q. Now, what forces handle the loading and the transfer of the truck that goes up to Audubon?

A. My one man helps the over-the-road driver.

Q. Do you have an office force?

A. Yes, sir.

Q. What does that consist of?

A. Well, my rate clerk, manifest clerk, billing clerk, and general office work.

Q. One full-time clerical employee?

A. Yes; there from 7:30 in the morning until 5 in the afternoon.

[fol. 634] Q. Prior to sometime about November or prior to September, 1951, were there certain additional runs that you had at that time other than the ones that you have at the present?

A. Yes.

Q. What difference was there in the number of runs or in the number of employees you had in Atlantic prior to that time as compared with the present?

A. Well, our force in Atlantic has been the same. We haven't had to lay off any men because of it, but there have been truck schedules that we have had to take off.

Q. Well, that is what I have asked you about. Explain that.

A. Our Lincoln truck has been taken off and also our extra trucks that did run and maintain schedules into Omaha through from Des Moines have been eliminated.

Q. That was one run?

A. No; it was two.

Q. That is, there was——

A. Two trucks.

Q. There was the Lincoln run. Was that a run that originated at Atlantic?

A. No; that originated at Des Moines.

Q. That originated at Des Moines and terminated at Lincoln?

A. That is right.

Q. But passed through Atlantic?

A. Passed through Atlantic and oftentimes left us a lot [fol. 635] of freight. Speeded up our operations a little.

Q. The other run that has been eliminated is an Omaha-Des Moines run?

A. That is right.

By Exam. Carpenter:

Q. Is that Lincoln, Iowa?

A. Lincoln, Nebr.

Mr. Howland: No; Lincoln, Nebr., Mr. Examiner. I think you may cross-examine.

Exam. Carpenter: Mr. Fowler.

Cross-examination.

By Mr. Fowler:

Q. As I understand it, the Rock Island Motor Transit and the Rock Island Railroad have their freight terminals in the same building?

A. That is right, sir.

Q. That is in the railroad depot of the Rock Island Railroad?

A. That is right.

Q. Now, what kind of a dock force does the Rock Island Railroad have at Atlantic?

A. The Rock Island rail has only one dock man and their dock is— However, we do use the same dock, but we have a division line and they maintain their own dock and we maintain ours.

Q. It is an open——

A. It is open; yes.

Q. It is all right on the same platform?

A. It is all right on the same platform; yes.

[fol. 636] Q. And do you have a pickup-and-delivery truck there?

A. In Atlantic, we have three of them.

Q. You pick up railroad freight as well as motor carrier freight?

A. Yes.

Q. In other words, the same driver picks up the freight irrespective of whether it is railroad or motor carrier freight?

A. That is right.

Q. Who owns the pickup-and-delivery truck?

A. Rock Island Motor Transit.

Q. Who pays the driver?

A. Rock Island Motor Transit.

Q. Do you keep any record of the railroad freight that the Rock Island Motor Transit Company picks up?

A. Yes; we do.

Q. And when the driver comes down to the freight depot, does he unload it right there on this open platform?

A. He unloads at the rail end; yes, sir.

Q. At the rail end?

A. Yes, sir.

Q. In addition to this pickup service, I suppose you also use the same truck for delivery?

A. That is right; we do.

Q. So what happens as far as the pickup-and-delivery service is concerned, the rail-billed freight and the motor-carrier-billed freight is just handled all together by the pickup?

[fol. 637] A. Yes.

Q. The rail-billed freight is loaded on the over-the-road truck along with the motor carrier-billed freight, is that correct?

A. Small shipments; yes.

Q. Is there any way-freight service by rail for l. c. l. shipment maintained out in that territory around Atlantic?

A. I'm sorry. I didn't——

Exam. Carpenter: Read the question.

(Question read.)

By Mr. Fowler:

Q. For instance, what I am trying to get at, is there an l. c. l. rail service available at such towns as Marne, Walnut, Avoca?

A. Not Marne. Marne no longer has a station.

Q. And that would be true of Minden?

A. Wild, of course, we won't mention that, but there are some towns where they are no longer maintained.

Q. Generally speaking, as I understand it, the local l. c. l.

way freight service by railroad out in that territory to these small towns has been abandoned?

A. Eliminated; yes.

Q. In its place you substituted this motor truck service?

A. That is right.

Q. And you handle intermingled either rail-billed freight or motor carrier-billed freight?

A. Well, now——

[fol. 638] Q. On l. c. l.?

A. Yes.

Q. L. t. l. shipments?

A. Yes.

Q. I suppose on carload shipments, there is still rail service?

A. Yes; I think there is.

Q. Now, with respect to an interstate shipment of a thousand pounds originating at Chicago destined to Atlantic, Iowa, how would it be handled in your present operation?

A. It would come to Des Moines and then be transferred over onto our truck that comes to Atlantic.

Q. In other words, it would be transported by truck from Chicago to Des Moines and then reloaded on——

A. Atlantic truck.

Q. —the Atlantic truck that peddles out of Des Moines, is that right?

A. That is right.

Q. How would a 500-pound shipment originating at Moline, Ill., destined to Atlantic, Iowa, get in?

A. It would be handled the same way. It would be brought into Des Moines and then loaded onto our truck to Atlantic.

Mr. Fowler: That is all.

Exam. Carpenter: Any redirect?

Redirect examination.

By Mr. Howland:

Q. Mr. Rice, you are referring, in response to certain

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VOLUME II

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1956

No. ~~101~~ 6

AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL., APPELLANTS,

vs.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, ET AL.

No. ~~110~~ 8

RAILWAY LABOR EXECUTIVES' ASSOCIATION, ET AL., APPELLANTS,

vs.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, ET AL.

APPEALS FROM THE U[illegible]ED STATES DISTRICT COURT FOR THE DISTR[illegible] OF COLUMBIA

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PROBABLE JURISDICTION NOTED OCTOBER 8, 1956

[fol. 639] questions by Mr. Fowler, as to the transportation of rail freight from either Chicago or Moline, Ill., to Atlantic, Iowa.

A. That was motor freight that he asked about.

Q. No; he was talking about rail freight. What is what I want to ask you about particularly.

A. Now, your rail freight——

Exam. Carpenter: Wait a minute. Ask your question, Mr. Howland.

By Mr. Howland:

Q. On a railroad shipment from Chicago, Ill., to Atlantic, Iowa, are you familiar with the handling which is now given that?

A. Yes; I believe I am.

Q. All right, tell us what it is.

A. It will come from Chicago to Des Moines by boxcar and distributed on small shipments, it comes both ways, by boxcar on into Atlantic or by truck.

Mr. Fowler: May I ask you a question, Mr. Howland?

Mr. Howland: Yes.

Mr. Fowler: Why is that, because of the restriction?

Mr. Howland: Because of the key-point restriction.

Mr. Fowler: At the Tri Cities.

Mr. Howland: No; at Des Moines.

Mr. Fowler: Oh, I see.

By Mr. Howland:

Q. And a shipment from Moline, Ill., would also move [fol. 640] by boxcar——

A. That is right.

Q. —as far as Des Moines and then be transferred onto the Rock Island Motor Transit Company truck?

A. It is my understanding; from Moline I am sure that is right.

Q. In the event there was a heavy piece of l. c. l. freight that might require the facilities of a boxcar for handling, that may be brought on into Atlantic by boxcar?

A. We had one yesterday. That is right. It did.

Q. Who is it that handles the collection of the freight bills for rail freight?

A. The rail.

Q. The rail agent?

A. Yes.

Q. Who is it that bills out and handles any rail freight that moves out of Atlantic?

A. The rail.

Q. Have you solicited rail freight in Atlantic?

A. No, sir.

Q. Has the rail agent solicited truck-billed motor transit freight?

A. I hope not. I don't know.

Q. You don't have any knowledge of that——

A. No; I have no knowledge of it.

Q. —of his performing any solicitation service for your [fol. 641] company, have you?

A. No.

Exam. Carpenter: Any re-cross?

Re-cross examination.

By Mr. Fowler:

Q. Mr. Rice, it doesn't make any difference to you who solicits it so long as the Rock Island Railroad gets it?

A. As long as the Rock Island rail—I am interested in Rock Island Motor because they pay my bills and pay my salary. The rail has nothing to do with that.

Q. Aren't you working for the Rock Island Railroad?

A. I am working for Rock Island Motor Transit.

Q. Who is the Rock Island Motor Transit?

A. Maybe they are indirectly connected with the rail, but Rock Island Motor Transit signs my pay checks, so——

Q. It doesn't make much difference to you whether Aunt Lizzie or Aunt Susie gets the freight, does it? I am serious about that.

A. I know you are. Well, primarily, as long as I have my job, the rail has not paid any of my bills.

Q. But no matter who solicits, who gets it, it is all handled on the same truck, isn't it?

A. To a certain extent: yes.

Mr. Fowler: That is all.

Exam. Carpenter: Any redirect?

Mr. Howland: Nothing further.

[fol. 642] Exam. Carpenter: You are excused.

(Witness excused.)

O. A. MEREDITH was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, please?

A. O. A. Meredith.

Q. Your home is where, Mr. Meredith?

A. Atlantic, Iowa.

Q. I believe you are interested in a hardware and implement business at that point.

A. Yes, sir.

Q. Do you have stores located at any point other than Atlantic, Iowa?

A. At Griswold, Iowa, we have.

Q. At Griswold, Iowa?

A. Yes, sir.

Q. Atlantic is a town of about what size?

A. 6,000.

Q. It is located about 86 miles west of Des Moines on U. S. highway 6?

A. Yes, sir.

Q. Griswold, Iowa, is located where with reference to Atlantic?

A. It is located about 18 miles to the southwest.

Q. And about what is the population of Griswold?

[fol. 643] A. 1500.

Q. And Griswold has what in the way of manufacturing facilities or companies? Describe the type and character of the business at that point.

A. My particular business?

Q. No; business generally in Griswold.

A. It has one factory, a factory that manufactures oil burners, lawn mowers, and does some custom manufacturing. The other businesses in the town are mainly retail.

Q. It has the usual service and retail establishments to serve a farming community?

A. Yes, sir.

Q. That you customarily find in the State of Iowa?

A. Yes, sir.

Q. Has a trade territory immediately surrounding the town extending for some miles in each direction?

A. Yes.

Q. Atlantic is a distributing center for that area and has what types of industry?

A. Well, they have a popcorn manufacturing plant, a mineral feed plant. They have a chemical processing plant there. They have one wholesale establishment. They have three wholesale establishments, excuse me, and the rest of the business is mainly retail.

Q. Retail and the service of var. us types?

[fol. 644] A. Yes, sir.

Q. Now, what particular business do you handle at Atlantic?

A. The nature of the business?

Q. Yes.

A. We handle farm equipment, well and water supplies, hardware, farm implements, and coal.

Q. Do you have a particular line of farm implements that you sell at retail?

A. We have several lines. Probably the best known of them is the New Idea line. We also handle the Dunham line, Roderick Lean and several short lines, no major line.

Q. Now, what is your source of supply for your implements and hardware lines, source or sources?

A. Well, we get shipments from Lexington, Ky., St. Louis, Mo., Minneapolis, Minn., Chicago, Ill., Omaha, Nebr., Des Moines, Iowa, Ottumwa, Iowa, St. Joseph, Mo. That about covers it.

Q. I take it then you are interested in transportation

service from points outside the State of Iowa serving Atlantic, Iowa?

A. Yes, sir.

Q. What service by motor carrier have you been utilizing at Atlantic in recent months or years?

A. Mainly the Rock Island Motor Transit. In fact, we specify them on most—we have specified them on all our shipments, but we do have service from Watson, Iowa-Nebraska, and Bos. There may be others. Those are the three main ones.

[fol. 645] Q. Those are the three principal ones that you know of. Does the Iowa-Nebraska Transportation Company have a company representative in Atlantic other than the local drayman there?

A. No, sir.

Q. How about Watson?

A. They haven't either.

Q. In other words, I take it that both those companies maintain their local service through some local drayman or local transfer company?

A. Yes, sir.

Q. How about the Bos company?

A. Box company uses the same drayman. All three of those companies use the same drayman.

Q. They all three have the same drayman?

A. Yes.

Q. About what would be the size of the shipments that you would ordinarily receive in the course of your business at Atlantic, Iowa, and about how often do you— First, I will ask, about how often do you have occasion to receive shipments at Atlantic from points outside the State of Iowa?

A. Oh, every 3 days, I would say on an average.

Q. And about what size would these shipments run in weight?

A. Well, they will vary—you are speaking of l. c. l. shipments now?

Q. Yes; other than carload shipments.

[fol. 646] A. They will run from a minimum shipment of 150 pounds up to 6,000 pounds.

Q. Up to 6,000 pounds?

A. Excuse me. 6,000 pounds; yes, sir.

Q. Have you had occasion in the past to have deliveries made to your place of business there in Atlantic by these other carriers such as Watson Bros., Iowa-Nebraska, and Bos?

A. Yes, sir.

Q. And about how frequently has that been true?

A. Well, I don't quite understand the question.

Q. You say you have shipments coming in at least twice a week from points outside the State of Iowa. Now, in connection with these shipments, what company has performed the transportation service into Atlantic in most instances?

A. It would be Rock Island Motor Transit.

Q. The Rock Island Motor Transit Company?

A. Yes, sir.

Q. And you have had some shipments in by these other three lines that you have referred to?

A. Yes. The shippers sometimes sent through those other lines.

Q. When you specify the routing, you specify Rock Island Motor Transit, I take it?

A. Yes, sir.

Q. All right. How *has* the service that has been rendered to you by these other motor carriers compare with [fol. 647] the service rendered by the Rock Island Motor Transit, Mr. Meredith, as to regularity or as to the time of arrival?

A. From our standpoint, the other carriers have been decidedly inferior in service to the Rock Island Motor Transit.

Q. In what respects?

A. One being the speed with which the shipments come. Another being the fact that we have no indication that they audit the rates, and when there is an over-charge we have considerable time getting the matter straightened out. In the case of lost or delayed shipments, we haven't yet found a satisfactory way to trace them.

Q. What has been your experience with respect to handling and servicing of claims for loss or damage?

A. They have been very slow---oh, three times as slow,

say, as the Rock Island Motor Transit has been in responding to them and clearing them up.

Q. Would it be correct to state that as far as your relations with the carriers serving Atlantic, Iowa, Mr. Meredith, that the service rendered by the Rock Island Motor Transit Company with respect to the time involved in performing the transportation service and in respect to tracing and handling of claims and similar matters, that the service performed by the Rock Island Motor Transit Company has been superior to that of the other three concerns mentioned?

A. Decidedly.

[fol. 648] Q. Now, down at Griswold you have a place of business there. What do you handle at that point?

A. We handle farm equipment and seeds, hardware, and well and water supplies there, too.

Q. I take it that the source of supplies for the Griswold store would be substantially the same as you have told us about with respect to the Atlantic establishment.

A. Yes, sir.

Q. Now, what service do you have at Griswold, Iowa, in the way of motor carrier freight service on inbound shipments?

A. We have the Rock Island Motor Transit, Thornton Transfer, who operates between Griswold and Omaha, Nebr., and McVey Transfer operating between Greenfield, Iowa, and Omaha, Nebr.

Q. Do those latter two carriers named operate over highways that lie to the south of U. S. highway 6 between Griswold and Omaha?

A. Yes. They both operate over that.

Q. I take it you have had some occasion to have shipments coming in to your Griswold place of business over these other carriers that you have referred to.

A. Yes.

Q. Generally speaking, how is the service performed by Thornton Transfer and this McVey Transfer Company compared with the service that you have had at Griswold from the Rock Island Motor Transit?

A. The Rock Island Motor Transit has been, in our ex-
[fol. 649] perience, the best available means of transportation to Griswold.

Q. You say that Thornton operates between Griswold and Omaha, Nebr., and that McVey operates between Greenfield and Omaha, Nebr. A shipment handled by either of those carriers would necessarily have to move into Omaha, Nebr., and there be interchanged to either the Thornton or the McVey line, is that true?

A. Yes, sir; that is true.

Q. What is the fact as to whether that additional transportation and the interchange with the connecting lines at Omaha increases the over-all time in transit?

A. I don't think I got your question.

Q. As compared with Rock Island Motor Transit?

A. Apparently, it is a delay in doing that because we have found through experience we can get faster service through Rock Island Motor Transit.

Q. How has the service of these other carriers been with respect to tracing shipments or handling or processing claims compared with that of the Rock Island Motor Transit, if you have had any experience?

A. We have had no experience with McVey on any— We very rarely had shipments come in through McVey, and Thornton, Rock Island Motor Transit is superior in that respect.

Q. Now, Mr. Meredith, you are familiar with the fact that since about November 3, I believe it was, 1951, Rock Island Motor Transit Company has been operating under a [fol. 650] maximum restriction of 5,000 pounds on motor carrier freight. Does that have any effect on your business either at Atlantic, Iowa, or at Griswold, Iowa, with respect to your transportation requirements?

A. Yes.

Q. Explain in what way.

A. One example is the carrying of these farm implements. In the case of manure spreaders, if bought in quantities of four, the purchaser gets an additional 2 percent discount, so it is to our advantage to purchase them in lots of four.

The weights on those spreaders run all the way from 1,200 up to 1,550 pounds, and the bulk of the business we have been doing this year particularly has been in the 1,550-pound class, which of course would take it over the weight limit set down.

Our fill-in on woven wire, we would have several shipments that would exceed that limit.

In the case of farm seeds—this is applying to the Griswold store and not to the Atlantic store—shipments that would exceed that weight wouldn't be out of the ordinary.

Q. That is in the seed business which you handle at Griswold, you frequently have occasion to make purchases and make a single shipment in excess of 5,000 pounds?

A. Yes.

Q. That is somewhat seasonal, of course?

A. Yes, sir.

Q. But yet it is a part of your business at the Griswold store?

[fol. 651] A. Then paints, the way most of these paint companies do business, the ones we deal with anyway, they come along in the spring and take a spring order. It doesn't have to be paid for until we have half the paint already sold, so it is to our advantage to get a big order in on that and get most of our paints at one time, and those will run over the restriction.

Q. Over the 5,000-pound maximum?

A. Yes, sir.

Q. From what point do you customarily receive shipments of paints?

A. The paints on these big orders come from Lexington, Ky.

Q. Lexington, Ky. Mr. Meredith, the Rock Island Motor Transit Company at present is operating only on purely temporary authority as a motor carrier, and this hearing is for the purpose of making that authority permanent. Would the termination of the Rock Island Motor Transit Company service into Atlantic or into Griswold have any effect upon your business?

Mr. Fowler: That is objected to as immaterial.

What was that question again?

(Question read.)

Q. Mr. Fowler: Objected to as immaterial, assuming a fact not established in this record.

Exam. Carpenter: Overruled.

By Mr. Howland:

Q. You may answer the question.

A. In my opinion, it would. It would increase our cost of doing business. Our freight last year ran almost 6 per-
[fol. 652] cent of our net sales, and by taking the Rock Island out I believe that the overhead in freight would increase because of the trouble and time we have to put in trying to get these confusing matters straightened out that often arise in the freight business.

Q. Would you say that a continuation of the business of the Rock Island Motor Transit Company, both to Atlantic and to Griswold, on the motor carrier basis is necessary in order to continue adequate service to those communities?

The Witness: Could I have that question?

Exam. Carpenter: Please read the question.

(Question read.)

A. Yes; I believe so.

By Mr. Howland:

Q. One thing I omitted to ask you about. Atlantic, of course, is on the Des Moines-Omaha-Lincoln-Denver line of the Rock Island Railroad. What rail service does Griswold have?

A. Griswold has service from the south, from Red Oak, Iowa, a branch line running from Red Oak, Iowa, to Griswold, a branch of the Burlington railroad.

Q. Formerly back some 10 years ago, the Rock Island Railroad did have a branch line into the town of Griswold?

A. Yes, sir.

Q. To your knowledge, has the Burlington Transportation Company ever performed any service into Griswold, Iowa?

A. The Burlington Transportation is a truck line?

[fol. 653] Q. Yes, sir.

A. No, sir; not to my knowledge.

Mr. Howland: You may cross-examine.

Exam. Carpenter: Mr. Fowler.

Cross examination.

By Mr. Fowler:

Q. Mr. Meredith, on your shipments originating at Omaha to Atlantic, Iowa, what difference would it make in the service you are receiving from the Rock Island whether this application is granted or not?

A. Could I have that question again?

Exam. Carpenter: Read the question, please.

(Question read.)

A. As I understand, if the application isn't granted, then the Rock Island won't make deliveries in Atlantic.

By Mr. Fowler:

Q. Don't ask me. I am not speaking for the Rock Island Railroad.

A. Oh, the railroad.

Q. I was wondering what you had in mind.

A. Are you speaking of the railroad service?

Q. I am speaking of the combination of the railroad and the Rock Island Motor Transit Company. They are all one and the same thing. You know that, don't you?

A. Well, to us they are two separate facilities.

Q. I understand. What difference would it make, so far as you are concerned on those shipments I have just [fol. 654] described, whether this application is granted or not?

A. I don't know what effect it would have if the application were not granted. If we depended on rail shipments solely from Omaha, then we would have to look for another means of transportation because rail service from Omaha is poor.

Q. You understand, do you not, that the Rock Island Railroad have authority to handle rail shipments by truck at the present time? Did you know that?

A. I didn't know that, sir.

Mr. Fowler: That is all.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Howland:

Q. Mr. Meredith, in the event that this application was denied, do you understand that the Rock Island Motor Transit Company would be unable to handle any shipments on motor carrier billing, would be unable to perform any interline motor carrier service to and from Atlantic, Iowa?

A. Do I understand that?

Q. Yes.

A. That was my understanding.

Q. That was your understanding. Would the elimination of that interline service at Omaha have any effect upon your business either at Griswold or at Atlantic?

A. I believe it would have a definite effect.

Q. In the event that the service by motor truck from [fol. 655] points of origin outside the State of Iowa was such it would require transportation by boxcar to Des Moines by the Rock Island Railroad and truck service beyond, would that have any effect on your business?

A. Yes, sir. It would be quite a bottleneck.

Q. Explain why that would be true, in your opinion.

A. Well, the rail shipments at best in carloads, say, from Illinois take approximately 12 days. Now, from Illinois, I mean from the coal mines in southern Illinois. From northern Oklahoma, 2 weeks. With that experience, I would think it would be a definite slow up to have them handled by rail part way.

Q. That is, have them handled by rail as far as Des Moines, Iowa, and then a transfer of these l. c. l. shipments——

A. Yes.

Q. ——to the truck line at Des Moines. You believe that type and character of service would be adequate for Atlantic and Griswold, Iowa?

A. I don't believe so, sir.

Mr. Howland: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

Exam. Carpenter: A 5-minute recess.

(Short recess.)

BRUCE ROBINSON, was sworn and testified as follows:

[fol. 656] By Mr. Howland:

Q. Will you state your name so that we can all get it, please?

A. Bruce Robinson.

Q. You live where, Mr. Robinson?

A. In Atlantic.

Q. Your business is what?

A. Retail hardware and furniture, too.

Q. At what points do you have a store or stores?

A. We have a store in Atlantic and also one in Wiota. It is a town about 5 or 6 miles east of Atlantic.

Q. Wiota is located immediately adjacent to U. S. highway 6 east of Atlantic, is that right?

A. That's right.

Q. About what is the population of Wiota?

A. Oh, approximately 300, I think.

Q. What type of business do you have at Atlantic?

A. We have general hardware, paints and things of that kind. No farm supplies there to speak of; that is, like fencing or tractors or anything of that kind. No large stuff.

Q. Does your business there include some furniture lines and appliances as well?

A. Yes. Really operate three stores. We have two stores in Atlantic.

Q. You have two stores in Atlantic?

A. Yes; furniture and appliance store besides the hardware store.

[fol. 657] Q. Besides the hardware store, and those are operated under a common management, but the stores are in two different establishments?

A. Well, really two separate managements.

Q. But you are interested in both of them, I take it?

A. Yes, sir; that is correct.

Q. First with respect to your hardware business, what are the sources of supply from which you purchase your hardware lines; that is, at what points are they located, not necessarily the names of the companies, but the origin?

A. Some from Omaha, Des Moines, Ottumwa, Iowa and Chicago, Ill.

Q. And the furniture and appliance store, your sources of supply are located where principally?

A. Principally Omaha, Des Moines, some from Chicago and points in Missouri.

Q. Do you have occasion to make carload shipments from these points or is your principal business in the less-than-carload or less-than-truckload shipments?

A. Well, the principal shipments would be less-than-carload shipments.

Q. About how frequently do you have occasion to make shipments of the character that you have referred to from points outside the State of Iowa?

A. Oh, several times a week on the average.

Q. Would it be almost a daily occurrence?

[fol. 658] A. I would say it would be at least 4 days a week.

Q. And about what size in pounds or weight would these shipments be?

A. Oh, they usually run from 2 or 3 hundred on up to a couple of thousand pounds.

Q. Now, with respect to the hardware lines, does that include paints and matters of that sort?

A. Yes.

Q. What carrier has been providing the transportation service on your inbound shipments there to Atlantic in the past?

A. Mainly the Rock Island Motor. We get some through the Iowa-Nebraska.

Q. From Omaha?

A. From Omaha; we don't request that routing, but some companies prefer that, so we allow it.

Q. Now, what companies perform your transportation service from Chicago to Atlantic or from west Missouri points into Atlantic?

A. We usually route them truck, but naturally they

would be carried by some foreign truck line I wouldn't be familiar with.

Q. But in coming into Atlantic, they would arrive, I take it, by——

A. Rock Island.

Q. —by the Rock Island Motor Transit Company. In the event that the Rock Island Motor Transit Company service as a motor carrier from eastern points to Atlantic, [fol. 659] Iowa, were eliminated or that the motor carrier service from Omaha, to Atlantic, Iowa, were eliminated or substantially curtailed, would that have any effect on your business?

Mr. Fowler: Just a minute. That is objected to as immaterial, assuming facts that are not established in this record.

Exam. Carpenter: Objection overruled.

A. It would inconvenience us, I would say, considerably.

By Mr. Howland:

Q. In what respect? Explain that.

A. Well, it would slow down shipments no doubt, especially if we had to ship by rail, because rail freight—well, to start with, they do not have daily less-carload, daily local freight into Atlantic. I would say about 2 or 3 days a week—I am not sure about that, but it wouldn't be daily we know. That would make a difference, and it would make a considerable difference to our Wiota store because we depend exclusively there on Rock Island Motor Transit.

Q. Your Wiota store also has occasion to make these shipments both from Omaha and from the east?

A. Yes. We handle a heavier type of merchandise there, and of course it would worry us quite a little if we didn't have good service there.

Q. Now, particularly in the Wiota store, do you have occasion to make heavier shipments or in heavier commodities?

A. Yes.

[fol. 660] Q. Explain that, please.

A. We handle fencing, steel posts, tanks, steel tanks, and

stock feeders, hog feeders, and quite a lot of the heavier items there.

Q. Carry a general line of farm supplies and equipment?

A. That's right.

Q. At that point. As I understand it, at your Wiota store, you don't handle the implement lines as such?

A. No.

Q. But it is more a matte of general supplies?

A. That is corect.

Q. Are you interested in any hardware stores other than Atlantic and Wiota?

A. No.

Q. In the event of a substantial curtailment or the total elimination of this motor carrier service, you say that that would have an even greater effect at Wiota than it would at Atlantic?

Mr. Fowler: That is objected to as immaterial, assuming facts not established in this record.

Exam. Carpenter: Objection overruled.

A. Yes; it would, due to more than one factor. Wiota is what you would call a flag stop. They have no agent there on the rail, and we would have to depend on truck service there entirely, and the only two that we ever do get any freight on is the Rock Island Motor Transit, and as I said, occasionally some company may route something [fol. 661] through by Iowa-Nebraska.

Q. Iowa-Nebraska. So far as you are advised, is there any other carrier that renders any service to the town of Wiota?

A. Well, we don't see them there. I suppose Watson could.

Q. Has Watson customarily performed a service into Wiota, as you have observed it?

A. I can't recall of seeing their truck in town recently at all, within the last 6 months or a year.

Q. Have you ever been solicited by Watson Bros. for shipments into Wiota?

A. No; never.

Q. Now, Mr. Robinson, what would you say as to whether the requirements of the Atlantic community and the re-

quirements of the Wiota community require a continuation of the Rock Island motor carrier service that has been rendered in the past?

A. I didn't just get the question.

Exam. Carpenter: Read the question.

Mr. Howland: I think the question may be a little confusing. I will withdraw it.

By Mr. Howland:

Q. First let me ask you this: Do you have occasion in connection with your Wiota store to receive shipments in excess of 5,000 pounds?

Mr. Fowler: That is objected to as repetition.

Mr. Howland: I don't believe I have covered it.

Exam. Carpenter: I don't believe you asked that.

[fol. 662] Mr. Fowler: Okay. I will withdraw the objection.

Exam. Carpenter: Objection overruled.

A. Yes; we do, perhaps a couple of times a year.

By Mr. Howland:

Q. And what type and character of shipments would that be?

A. That would be mainly fencing, nails, and heavier items.

Q. Heavier hardware or farm supply lines?

A. That is correct.

Q. Now, in your opinion as a business man interested in these stores, would the elimination or substantial curtailment of the Rock Island service, Rock Island Motor Transit Company motor carrier service, to Wiota and to Atlantic have any effect on those communities?

Mr. Fowler: Objected to as repetition. Objected to as immaterial. Objected to because of the fact that it states facts not established in this record.

Exam. Carpenter: Objection overruled.

A. I think it would inconvenience the community very much because they are accustomed to good service from the

Rock Island Motor and one of the main reasons I would say that is that no other trucking company has the dock facilities for accommodating such shipments and service to the community as the Rock Island Motor has.

By Mr. Howland:

Q. Have you had any experience with the service of other carriers besides the Rock Island Motor Transit with [fol. 663] respect to tracing of shipments or the handling or processing of claims for loss or damage?

A. Yes. They have been handled much more efficiently by the Rock Island than they have by—I will name the Iowa-Nebraska and Watson. Those two are very careless with such things.

Mr. Howland: You may cross-examine.

Mr. Fowler: No cross-examination.

Exam. Carpenter: You are excused.

(Witness excused.)

DON C. MITCHELL was sworn and testified as follows:

Direct examination

By Mr. Howland:

Q. Will you state your name, please, so that we may get it?

A. Don C. Mitchell, Atlantic, Iowa.

Q. You live at Atlantic, Iowa?

A. Atlantic, Iowa.

Q. What is your business?

A. Atlantic Wholesale Grocery.

Q. What is your capactiy with that firm?

A. Secretary-treasurer.

Q. One of the owners of the business?

A. One of the officers and directors, and owners.

Q. In what business is your company engaged at Atlantic?

A. Wholesale distribution of all food, confection, and tobacco products.

[fol. 664] Q. In what territory do you sell these products?

A. A radius of about—mean radius of about 50 miles of Atlantic in all directions; some greater and some lesser.

Q. You sell principally, I take it, to the grocers in the towns in that area?

A. All retail establishments.

Q. And your business is the wholesaling of these commodities to the retail outlets in these various towns?

A. Yes, sir.

Q. Mr. Mitchell, I take it that you have a warehouse or place of business there in Atlantic from which a distribution service is performed?

A. We do.

Q. You have occasion to have shipments made inbound to Atlantic——

A. Yes, sir.

Q. —which are then either shipped out or handled by your own truck?

A. We distribute with our own truck.

Q. You distribute from Atlantic with your own truck?

A. Yes, sir.

Q. Do you customarily use your own truck to perform the inbound service?

A. Only when there are stop cars or break-up cars made at Omaha or Des Moines.

[fol. 665] Q. Would that be a major part of your business?

A. Oh, no; a minor part.

Q. From what general sources of supply do you draw the products that you handle and sell?

A. I would say Chicago and east and from the west coast.

Q. And also the west coast?

A. And on the west coast.

Q. Now; in what quantities do you customarily get your shipments into Atlantic?

A. Practically everything comes by truck, either truckload or less than truckload.

Q. Say on canned goods and similar items, where are your principal sources of supply?

A. On vegetables, I suppose they have their origin some in Wisconsin and then all fruits, of course, on the west coast.

Q. And in your truckload quantities, truckload purchases, what carriers have handled that business for you in the past?

A. In the case of sugar and salt, it is a contract carrier, private carrier, hired by the manufacturer or the supplier, and on Van Camp canned goods, for instance, they hire their own carrier in Indianapolis and put them straight through in truckloads.

Q. On any of these shipments do you pay or absorb the transportation cost on your truckloads?

A. On all of it, either directly or indirectly.

Q. And in some instances you pay the transportation cost direct?

[fol. 666] A. In addition, yes.

Q. Have you, particularly on your less-truckload shipments, in the past used the service of the Rock Island Motor Transit Company?

A. Quite extensively.

Q. And principally from what points of origin has that service been performed?

A. I would say Des Moines and east.

Q. And including points of origin located east of Iowa?

A. New York, Pennsylvania, and through the east. Chicago.

Q. Chicago and ~~eastern~~ points as well?

A. Yes.

Q. In that type of service, about what size will the shipments run in volume or pounds?

A. From minimum to 10 tons.

Q. Do you have occasion to receive shipments from, say, 2 tons to 10 tons, and with some regularity?

A. Oh, yes; quite frequently.

Q. About how often would that be?

A. Several times a month.

Q. Prior to the end of August 1951, the Rock Island Motor Transit Company had authority to transport shipments without restriction in interstate commerce to Atlantic. Did you use that service at that time, prior to the latter part of August 1951?

A. Did we use the Rock Island service?

[fol. 667] Q. Yes.

A. Yes; we have.

Q. Are you familiar with the fact that there have been restrictions of the maximum imposed on the Rock Island Motor Transit Company?

A. Yes, sir.

Q. First, there was a 2,000-pound maximum and we now have a 5,000-pound maximum. What has been the effect on your business or on your operations there of those maximum restrictions?

A. Well, another line is carrying it and we are having difficulty with it.

Q. You are having some difficulties?

A. Yes, sir.

Q. Explain that in a little more detail to the examiner.

A. I term it a split shipment. I don't know what you would call it. They will supposedly load on the entire shipments of 7 or 8 hundred or a thousand cases, but when it gets in part of it is sent forward and another truck a couple of days later—they don't get it all on, in other words. They don't have room or something.

Q. Does that have some effect on your ability to take care of your business? Does it impose some additional burdens on your clerical force or is there some uncertainty with respect to time of arrival?

A. It does, because you anticipate your requirements as close as you can.

[fol. 668] Q. Would the elimination of the 5,000-pound restriction, restoring the unlimited authority which the Rock Island Motor Transit had prior to last summer, be of any advantage in your business, do you think?

A. We feel so.

Q. Why is that true?

A. Well, on the supposition we would continue to get the good service that we have gotten on what they have handled on the larger shipments, it would stand in hand it would improve.

Q. Do you believe that the elimination of the maximum of 5,000 pounds would enable the Rock Island Motor Transit Company to better serve your company?

A. I would say so.

Q. Now, with respect to shipments coming in from the points west of Atlantic through the Omaha gateway, do you have occasion there to handle shipments in excess of 5,000 pounds?

A. Not so frequently, I wouldn't say. Most of your manufacturers are in the east.

Q. Are you interested in this pool-car distribution method of getting your merchandise in where a carload may come into a certain point of destination and there be distributed?

A. You mean rail car?

Q. Yes.

A. We only take it where we have to.

Q. You prefer to have the——

[fol. 669] A. It takes too long to get rail shipments.

Q. It takes too long?

A. It takes too long.

Q. You understand that the Rock Island Motor Transit Company at the present time is operating on a purely temporary authority issued by the Interstate Commerce Commission?

A. Yes, sir.

Q. Now, in the event the Interstate Commerce Commission would see fit to deny entirely the motor carrier authority of the Rock Island Motor Transit Company, would that have any effect on your business?

A. I would estimate it would take 2 to 3 months to get it converted.

Q. Can you explain just a little more in detail how that would affect your business?

A. We would have to go through all of our payable file, our sources of supply, and find out the present routing and if it was Rock Island Motor Transit, then we would have to seek another route and so instruct them, and our payable material file is a pretty heavy thing.

Q. It has been suggested by some of the parties interested that shipments from the east might be handled into Des Moines by boxcar and there transferred from the boxcar to the truck of the Rock Island Motor Transit Company, but the service to be performed on the rail billing from

point or origin to point of destination. How would that [fol. 670] compare with the service which you have been having from the Rock Island Motor Transit Company on motor truck billing?

A. Well, I imagine we would have to anticipate an awful lot longer transit period.

Q. Would that require you to maintain——

A. A larger inventory.

Q. —a larger inventory at your Atlantic warehouse?

A. And we couldn't warehouse it at present.

Q. You referred a few moments ago to what you term as split shipments where the shipments of 5 tons up in less-than-truckload quantities would come in at different times over a period of perhaps several days intervening between them. Were those shipments *shipments* made over the lines of the Rock Island Motor Transit Company or by other carriers?

A. Other carriers.

Q. Other carriers.

Mr. Howland: I think you may cross-examine.

Cross-examination.

By Mr. Fowler:

Q. As I understand it, Mr. Mitchell, as a result of this 5,000-pound restriction, rather than to split your loads up, you sought the services of some other common carrier by motor vehicle?

A. No; we let them come in over another carrier.

Q Well, in other words, they have been handling them [fol. 671] since this restriction went on by one of the other established common carriers?

A. Yes, sir.

Mr. Fowler: That is all.

Exam. Carpenter: Any redirect? You are excused.

(Witness excused.)

W. R. WOLVERTON was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, please?
A. W. R. Wolverton.
Q. You live where?
A. Adair.
Q. What is your business, Mr. Wolverton?
A. International Harvester.
Q. You handle the International Harvester line of farm implements?
A. Farm machinery, parts, motor trucks, and refrigeration.
Q. Does that include the full International Harvester line?
A. Yes, sir.
Q. Including trucks?
A. That is right.
Q. How long have you been engaged in business at Adair?
A. It will be 2 years the 23rd of this month.
Q. Do you have occasion to have shipments made to you [fol. 672] from points outside the State of Iowa to Adair in less-than-carload or less-than-truckload quantities?
A. All of it comes less-than-carload. All our heavy machinery is shipped out to certain points and then we pick it up from there by rail.
Q. What are the sources of supply from which you get your machinery, refrigeration lines, and farm implement lines?
A. The source of supply?
Q. Yes; where are the shipments made from to Adair?
A. From Moline, Ill., and Chicago, Memphis, Tenn., Louisville.
Q. Louisville, Ky.?
A. Kentucky. That is the most of the supply of heavy machines.
Q. Do you have need for transportation service in order to get those shipments into Adair, Iowa?
A. No. They are always shipped out in carload lots to

some point in our zone or to the warehouse here in Des Moines, and we pick them up here by truck then.

Q. You make your own arrangements for that service?

A. That is right.

Q. From wherever they are consigned in carload quantities?

A. Yes.

Q. Now, with respect to your repair parts and the smaller farm implements and items of that character, how are those shipments made?

A. They are all shipped by motor truck.

[fol. 673] Q. And from what points are those shipments made?

A. Well, we get our International parts from St. Paul, Minn. We get shipments from Minneapolis, Columbus, Nebr., Omaha, Des Moines, and agricultural attachment parts mostly come from Rock Island.

Q. You say those have all been coming in by——

A. Motor freight.

Q. —motor freight. That is, by motor carrier truck?

A. Yes.

Q. Now, in what quantities, what weights, do those shipments customarily move?

A. Very seldom we have a shipment over 12 or 15 hundred pounds.

Q. Is there a more or less continual movement of that type from these points to your store at Adair?

A. No. It doesn't run that large a shipment, as a general rule.

Q. What I mean to say is, do you have these shipments coming in as a continuous proposition?

A. Oh, yes; we have parts to come in every week, two or three times a week.

Q. So that you do have an occasion to have your shipments come in as a continual proposition?

A. That is right.

Q. What carrier or carriers have been performing the transportation service from these points such as St. Paul, Minneapolis, Rock Island, Louisville, and these other out-

[fol. 674] of-State points that you have referred to?

A. All of them from the east come by Rock Island Motor Transit.

Q. How about the shipments coming from the west, from Nebraska points?

A. Mostly Rock Island. Occasionally Iowa-Nebraska.

Q. Iowa-Nebraska Transportation. How has the service performed by the Rock Island Motor Transit been as far as meeting your needs for that type of service?

A. We think we get awful good service. We send stock order out, it has to be postmarked Tuesday evening to be sent to St. Paul to be filled and sometimes we get it returned by Friday, on Friday morning's motor freight.

Q. When you refer to shipments from the east, I take it you are including shipments from St. Paul and Minneapolis, as well as from points such as Rock Island and other——

A. That is right.

Q. In other words, any shipment that would have to move into Adair from the east, you would refer to that as shipments from the eastern points?

A. Yes; because all of our parts are routed from St. Paul by way of Des Moines.

Q. How has the service of the Motor Transit Company been on shipments moving to your place of business from Omaha, Nebr.?

A. Good.

Q. Have you had occasion to require tracer service or [fol. 675] claim service in connection with items that may have been lost or damaged in transit from time to time?

A. We have never had a claim from shortage or damage since the 2 years we have been in business.

Q. You haven't had any claims that you have presented?

A. From no motor freight of no source.

Q. Either the Rock Island Motor Transit Company or Iowa-Nebraska Transportation?

A. That is right.

Q. You have been pretty fortunate in that respect, I would say then, Mr. Wolverton. Mr. Wolverton, I take it from what you have said that as far as the Motor Transit transportation service that you would not be particularly affected by this maximum of 5,000 pounds which was imposed on the Rock Island Motor Transit Company here last summer.

A. No. It never has affected us yet in any way.

Q. What would you say as to whether in the event that the present authority of the Rock Island Motor Transit Company was eliminated altogether, that is, that the motor carrier service, the Rock Island Motor Transit Company could not perform any service at all, either from Omaha or from these eastern points, including Minneapolis and St. Paul, would you say that would have any effect on your business?

Mr. Fowler: Just a minute. That is objected to as being immaterial, assuming facts not established in this record.

[fol. 676] Exam. Carpenter: Objection overruled.

A. Yes; it would, because the Iowa-Nebraska only stops in our town, I think it is two or three times a week, and we have Rock Island Motor Transit 5 days a week.

By Mr. Howland:

Q. Have you had occasion to have any shipments coming by Iowa-Nebraska, delivered by Iowa-Nebraska, I mean, from points such as St. Paul, Rock Island, or any of these other points where the interchange would have to be made at Des Moines?

A. Well, I think we just had once or twice from probably Rock Island, I believe, is where it come, either Rock Island or Canton, Ill.

Q. Have you observed whether there was any difference in the time of transit by Iowa-Nebraska as compared with the time of transit by the Rock Island Motor Transit?

A. Not exactly because most of this that they have fetched out has been attachment parts and sometimes you will order them and you won't get them for 30 days or 60 days anyway, so you never know, but generally when we get the freight bill on them, in the next day or two they are in, whichever way they do come.

Q. When the invoice comes in, they will be in within a few days at least?

A. That is right.

Mr. Howland: You may cross-examine.

Exam. Carpenter: Mr. Fowler.

Cross-examination.

[fol. 677] By Mr. Fowler:

Q. Are you aware, Mr. Wolverton, that it would make no difference in the motor truck service which you are obtaining from the Rock Island Motor Transit whether this application was granted or not?

Mr. Howland: Just a moment. That is objected to as not proper cross-examination, assuming facts not shown by the record, and argumentative in form.

Exam. Carpenter: I will overrule the objection.

Mr. Fowler: Read the question.

(Question read.)

A. Well, it would make a difference to us unless they set up some other kind of a motor truck service we could rely on like we do the Rock Island Motor truck service.

By Mr. Fowler:

Q. For instance, did you know, Mr. Wolverton, that the Rock Island Motor Transit Company now has authority to operate a truck service from Omaha to Adair? Did you know that?

A. No; I didn't.

Mr. Fowler: That is all.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Howland:

Q. If the service which the Rock Island Motor Transit Company is authorized to perform is merely a delivery service on rail billing, would that fact affect the answer which you have given to Mr. Fowler?

A. I would have to have that question.

[fol. 678] Exam. Carpenter: Read the question.

(Question read.)

A. I just don't quite get——

By Mr. Howland:

Q. Let me ask you this: Are you aware that so far as the permanent authority which the Rock Island Motor Transit Company holds at present, that it is confined to the handling of shipments moving on railroad billing? Did you know that?

A. No; I didn't.

Q. Well, now, supposing that a shipment from Rock Island, Ill., to Adair, Iowa, would have to move from Rock Island in a boxcar as far as Des Moines and there be transferred to the truck of the Motor Transit Company in order to make delivery to you, would that type of service in your judgment be satisfactory as far as your business requirements are concerned?

A. No. I would rather have it come right straight through on motor truck myself.

Q. And why?

A. Well, they bring it right up to your door and I think you get quicker service.

Mr. Howland: That is all.

Exam. Carpenter: Re-cross. You are excused.

(Witness excused.)

FRED MERTES was sworn and testified as follows:

Direct examination.

[fol. 679] By Mr. Howland:

Q. Will you state your name, please?

A. Fred Mertes, Adair. I am manager of the Farmers Lumber Company.

Q. How long have you been located at Adair, Mr. Mertes?

A. I have lived there all my life.

Q. About how old a man are you?

A. 37.

Q. How long have you been the manager of the Farmers Lumber Company?

A. Since January 1, 1951.

Q. What is the business of the Farmers Lumber Company?

A. Retail lumber, coal, fencing, hardware, builder's hardware, paints and like items.

Q. Do you handle farm supply items in the hardware lines such as feeders and hog waterers?

A. No.

Q. Take heaters or——

A. No.

Q. —matters of that sort?

A. We don't handle those.

Q. You don't handle those items. How about gates, roofing?

A. Yes.

Q. Fencing material?

A. Yes.

Q. Those items you do handle?

[fol. 680] A. Yes.

Q. About what is the population of Adair, Iowa?

A. Around 850.

Q. What is the nature of the businesses or industries located there in that community?

A. It is strictly a retail selling to a farming community.

Q. You have the usual service and retail installations to supply the needs of both the townspeople and the farmers in the community? A. That's right.

Q. Do you have any manufacturing or processing plants of any kind located there?

A. One produce plant.

Q. One produce plant?

A. Yes.

Q. Does that process and ship eggs and poultry?

A. It processes eggs to ship.

Q. I take it that as far as your building material lines such as lumber, cement, and your coal, that those shipments move in to Adair by carload freight?

A. That's right.

Q. With respect to these other lines, what is the fact as to whether or not your supplies are shipped in to you in less-than-carload quantities or less-than-truckload quantities?

A. That comes in by motor truck transit.

[fol. 681] Q. And from what general locations do you get these supplies?

A. Paints come from Minneapolis and also Kansas City, and then I have some builder's hardware from Omaha and also Des Moines; and then some of it comes on through from Chicago and billed through a wholesale house in Des Moines here.

Q. But a shipment that would be made from a manufacturer direct to your place of business at Adair?

A. That is right. I would order it through a wholesale house here and they make shipment on through without my knowledge.

Q. Of course, you make payment to the Des Moines wholesale house?

A. That's right.

Q. But the freight bill shows it originated at Chicago and——

A. That's right.

Q. —came as a through shipment to you, an interstate shipment. What carrier or carriers have been performing motor truck service to you at Adair?

A. The Rock Island Motor Transit and also Iowa-Nebraska.

Q. Has the Iowa-Nebraska rendered a transportation service on shipments moving both from the east as well as shipments from Omaha?

A. Just from Omaha is all.

Q. Just from Omaha, Nebr.?

A. That I know of.

Q. About how long has the Iowa-Nebraska service been [fol. 682] rendered to you from Omaha?

A. Since I have been in the lumberyard there, they have.

Q. They have been performing that service?

A. Yes; on occasion.

Q. About what is the frequency of that service?

A. Of their service, Iowa-Nebraska?

Q. Yes.

A. Oh, an average of probably once a month. It varies.

Q. Well, I take it you don't have the need for service from Omaha as frequently as you have from the other direction?

A. That's right.

Q. But do you know about how often Iowa-Nebraska serves the town of Adair, whether they do it on daily or twice or three times a week?

A. That I can't tell you for sure. I am in the other end of town and don't see the truck come in.

Q. Do you have occasion to have shipments delivered to your place of business in quantities in excess of 5,000 pounds by motor carrier?

A. Yes. Only in full truckload lots.

Q. And that is shipments of roofing?

A. And fencing material.

Q. Wire?

A. Yes.

Q. Where do you get those shipments from?

[fol. 683] A. Chicago.

Q. How are those shipments in truckload lots ordinarily delivered to your place of business?

A. By truck, through the American Transit lines.

Q. American Transit?

A. Yes.

Q. And as a matter of fact, the actual transportation, the truck that comes in, is usually a livestock truck?

A. That's right.

Q. Going from east to west?

A. That's right.

Q. That is not a regular established service by any one carrier?

A. No. The way I understand this, they have a billing place in Chicago and these trucks go pick up their orders and then they can haul merchandise out.

Q. Where do these trucks come from? Are they local trucks there in the territory, or do they come from some other territories to make this delivery service?

A. That I can't tell you because I don't know. They bring in the bill from the transit lines and there is one truck that was in yesterday or day before yesterday from Cumberland. The driver lived at Cumberland.

Q. That is Cumberland, Iowa, in Cass County?

A. Yes; that is right.

Q. That is some 20 or 25 miles south and west of Adair?

[fol. 684] A. That is right.

Q. Have you had trucks coming from points such as Perry and Guthrie Center and perhaps also points west of Adair performing that service for you?

A. There could have been. I don't know.

Q. In the event that you have any shortages or any difficulties over shipments of that character, have you ever had any difficulty of that type?

A. Not on those full truckload lots.

Q. You don't know what the situation might be with respect to making claims or getting adjustments?

A. No; I don't.

Q. You haven't had that experience?

A. I haven't had that experience yet.

Q. Mr. Mertes, you understand, do you, that the Rock Island Motor Transit Company, as far as its authority as a motor carrier, is operating on a purely temporary basis at the present time?

A. That is right.

Q. And that the only permanent authority which the Rock Island Motor Transit Company now has is authority to handle shipments that move on railroad freight billing?

A. That is right.

Q. If the Rock Island Motor Transit Company, for instance, on handling of items originating at Mississippi River points or points east of the Mississippi River could [fol. 685] only handle shipments moving by boxcar from those points to Des Moines, Iowa, where the shipment would be unloaded and transferred to the truck line, would a service of that character have any effect on your business?

A. It would some due to an extra handling there and also our railroad boxcars are a little rougher on merchandise than truck lines are.

Q. Do you think that would be as satisfactory a service as far as your business is concerned as the service now performed by the Rock Island Motor Transit Company?

A. I doubt whether it would be.

Q. What would you say as to whether, if the Interstate Commerce Commission should entirely eliminate the motor carrier authority which the Rock Island Motor Transit

Company has on the temporary basis, as to whether that would have any effect on your business?

Mr. Fowler: Just a moment. That is objected to as immaterial, for the reason it assumes facts not established in this record; for the further reason I haven't heard any suggestion from anybody representing the Rock Island Motor Transit Company that they aren't going to continue the operations that they have authority to operate under their present permanent authority.

Exam. Carpenter: The objection is overruled.

A. You mean if the Rock Island truck was to discontinue service?

By Mr. Howland:

Q. If the Rock Island Motor Transit Company couldn't handle any business on motor carrier billing; that is, [fol. 686] couldn't interline with other truck lines, couldn't perform any transportation service at all except purely on a railroad freight billing, would that affect your business?

A. Well, it would hold up a shipment on the merchandise, take an extra day or two on account of the handling of it.

Q. Would that affect your business adversely?

A. Yes; to this extent, that as a rule when you order something that way, you are in a hurry for it. Some farmer is waiting on it.

Q. And is prompt transportation, with a minimum of handling, necessary then?

A. Yes; it is.

Q. Now, as I understand it, you have shipments of paint coming in both from manufacturers located in Minneapolis and some from Kansas City?

A. That's right.

Q. Does that move on Rock Island Motor Transit Company billing from the point of origin right to your place of business at Adair?

A. I think so.

Q. In other words, there is no interchange with any other truck line or anything of that sort?

A. It does from Kansas City, I think. On some of the shipments, it does.

Q. Would the service, in your judgment, be as satis-[fol. 687] factory as that presently rendered if it were necessary that the shipment be transported, say, from Minneapolis to Des Moines and there interchanged to me other carrier?

A. That is kind of a hard question to answer. If they tried to make shipment, it could be as good.

Q. Have you had experience with shipments where there were two or more carriers as compared with just one carrier?

A. No; I haven't had any of those.

Q. Do you know of any trucking carrier, motor truck carrier, that provides a 5-day-a-week service into Adair from the east?

A. No; I don't know of any.

Q. Other than the Rock Island Motor Transit Company?

A. That's right.

Mr. Howland: You may cross-examine.

Cross-examination.

By Mr. Fowler:

Q. The Rock Island Motor Transit now have authority and are actually performing a truck service for you on your stuff from Minneapolis to Adair, aren't they?

A. Yes.

Q. You are aware that they now have that authority?

A. Yes.

Q. And that this application wouldn't have anything to do with that?

Mr. Howland: That is objected to as assuming facts that are entirely contrary to this record.

[fol. 688] Exam. Carpenter: I will overrule the objection. You can clear it up on redirect.

Mr. Fowler: Off the record.

Exam. Carpenter: All right.

(Discussion off the record.)

Mr. Fowler: I will withdraw the question.

By Mr. Fowler:

Q. On your Kansas City shipments, I presume those are originated at Kansas City by some other motor common carrier?

A. That is right.

Q. And then interlined at Omaha?

A. Some of them are, yes. Some of them come straight through.

Q. By Rock Island Motor Transit, by truck?

A. Some of them come through on Iowa-Nebraska, some of them do.

Q. Let me ask you about that. Let's put it this way: At the present time the Rock Island Motor Transit is handling shipments for you from Kansas City, Kans., and Kansas City, Mo., to Adair, Iowa, by truck?

A. Yes.

Q. And also you are receiving shipments that are handled by other carriers and interlined with Iowa-Nebraska at Omaha for destination Adair?

A. Yes.

Mr. Fowler: That is all.

Exam. Carpenter: Redirect.

[fol. 689] Mr. Howland: No redirect.

Exam. Carpenter: You are excused.

(Witness excused.)

CRAIG SCHWAB was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, please?

A. Craig Schwab.

Q. You live in Iowa City, Iowa?

A. Yes, sir.

Q. What is your business?

A. Terminal agent, Rock Island Motor Transit Company.

Q. And how long have you been employed by the Rock Island Motor Transit Company?

A. It will be 7 years in August.

Q. And in what capacities have you worked?

A. Dock man, driver, terminal agent.

Q. You are now the terminal agent at Iowa City?

A. Yes, sir.

Q. And have been for about how long?

A. Approximately 2 years.

Q. Were you present in the courtroom when Mr. Gage testified this morning?

A. No; I wasn't here.

Q. Iowa City is the home of the State University of Iowa, [fol. 690] of course?

A. Yes, sir.

Q. And also has a Veteran's Administration hospital?

A. Yes, sir.

Q. Which is just being completed, and what manufacturing or industry does it have?

A. Moore Business Forms, which is printed forms, and Economy Advertising, which is calendars and printed forms. There is a small sign company, advertising sign company there. That is about the extent of the actual manufacturing.

Q. It has no heavy industries——

A. No.

Q. —as we customarily term it.

A. No.

Q. The Rock Island Motor Transit Company has a terminal at Iowa City?

A. That is right.

Q. And is that in what was formerly the freight house of the Rock Island Railroad?

A. Yes, sir.

Q. Do you have a number of pickup-and-delivery units assigned to Iowa City?

A. I have five pickup-and-delivery trucks and one tractor for trailer work in the city.

Q. How many employees do you have at the Iowa City terminal?

[fol. 691] A. I have three dockmen, five city drivers, two road drivers, two clerks, and myself.

Q. Now, what runs are dispatched out of Iowa City at the present time, Mr. Schwab?

A. We have what we call a west peddle run that goes from Iowa City to Victor and return daily, and a south peddle run which runs from Iowa City to Wellman and return daily.

Q. What type of equipment is used on the run to Victor and return?

A. Semitrailer.

Q. About what is the capacity? Is it one of the tandem or one of the smaller jobs?

A. No; it is a 30-foot trailer, single axle.

Q. You say that runs daily. Is that 5 or 6 days a week?

A. Five days, Monday through Friday.

Q. And the run does not operate on Saturday, I take it?

A. Not unless the tonnage warrants it.

Q. What time does that Victor turn-around run customarily leave the Iowa City terminal?

A. Well, it is set up to leave immediately after loading, approximately at 8 a. m., 8 to 8:30 a. m.

Q. Now, what runs do you have coming into Iowa City from the east and the west where the trucks are not stopped at Iowa City?

A. You mean to say drop off freight and continue on?

Q. Yes; and continue on.

[fol. 692] A. You have your Chicago-to-Cedar Rapids units, your Chicago-to-Des Moines units, your Davenport-to-Cedar Rapids units, your Davenport-to-Des Moines units. That is it.

Q. Now, may any of those runs drop off shipments destined to points on either of the peddle runs that you have referred to?

A. That is right.

Q. And so a shipment destined to a point such as Oxford or Victor or any of the intermediate points coming from Chicago would be dropped off by one of these trucks that you have reference to and then loaded into the peddle unit, is that correct?

A. At Iowa City, yes.

Q. And that is true also with respect to your Wellman peddle run?

A. Wellman and Kalona; yes.

Q. Wellman and Kalona run. Now, what is the usual schedule on the Wellman-Kalona run as far as time of departure is concerned?

A. Approximately the same time as your west peddle.

Q. Is that a semitrailer——

A. Yes, sir.

Q. —unit?

A. Yes.

Q. Approximately the same size——

A. Same size.

Q. —as the Victor turn-around?

A. Yes.

[fol. 693] Q. Down at Kalona, about what size of a community is Kalona?

A. I would say between 750 and a thousand.

Q. And that is located where with reference to Iowa City?

A. It is located southwest on highways No. 1 and 22.

Q. About how far?

A. I think it is, by the new route, 19 miles, I believe.

Q. Wellman is a town of about what size?

A. Approximately the same size.

Q. It is located west of Kalona a few miles on highway 22?

A. Seven miles west; yes.

Q. That is correct as to the location of it?

A. Yes.

Q. On your west peddle run which goes out to Victor and returns, does that run handle any rail freight?

A. Yes, sir.

Q. And what is the fact as to how the l. c. l. rail freight is handled? Tell us about that.

A. Your l. c. l. rail freight is assembled by the railroad and turned over to us, to the Motor Transit. It is loaded with the Motor Transit freight in the same unit, peddled by the same driver.

Q. How is it handled at the point of destination?

A. It is peddled storedoor by the driver.

Q. Is that true at all points?

A. At all points but Marengo.

[fol. 694] Q. And at Marengo how is it handled?

A. At Marengo it is docked and a drayman handles it for the railroad company.

Q. At Marengo instead of the delivery service on the the shipment being performed by the Motor Transit unit, it is delivered to the Rock Island Railroad drayman?

A. That's right.

Q. And he performs the delivery service for the railroad, is that right?

A. Yes.

Q. Now, can you tell us about what the usual volume of tonnage is on this west peddler to Victor and return, including both railroad freight and motor carrier-billed freight, about what limits there would be?

A. Anywhere from 3,000 to 16,000 or 17,000. I would say 17,000 would be the limit.

Q. And about what proportion on that particular run does the railroad-billed freight bear to the total volume of the business handled by the truck?

A. I would say approximately 15, maybe 20 percent.

Q. Now, in the event that there is business outbound from these towns intermediate between Iowa City and Victor either on motor carrier billing or on rail billing, is it handled in this same truck on the return trip?

A. On the return; yes.

[fol. 695] Q. About what is the customary volume of such business that is handled on that Victor turn-around peddler? Do you have much?

A. It is very sporadic. There is a firm at Marengo which at times gives us pretty good weight. The majority of the time, the truck comes in with, I would say, not over 3 or 4 or 5 hundred pounds. Normally, it is what we call an empty unit.

Q. It is, for all practical purposes, almost a one-way operation?

A. One-way operation.

Q. And you peddle this freight out and the truck returns——

A. Empty.

Q. —almost empty. Does that truck pick up such rail

freight as may be moving outbound from these towns also?

A. Yes.

Q. Does the Wellman-Kalona run also handle the rail-billed freight?

A. Yes.

Q. About what is the tonnage handled on the Kalona-Wellman peddler run?

A. That unit usually runs between 10 and 20 thousand.

Q. 10 and 20 thousand pounds?

A. Yes.

Q. And about what proportion is normally rail-billed freight and what proportion motor carrier-billed freight?

A. I would say approximately 20 percent.

By Mr. Fowler:

Q. 20 percent what?

[fol. 696] A. Total weight.

Exam. Carpenter: Rail-billed.

Mr. Fowler: Oh, rail-billed.

Exam. Carpenter: That is what he means, I think, but he doesn't say so. It was a double-barrelled question. The way it was asked, it could apply to either one.

By Mr. Howland:

Q. I take it what you mean to say is that of the total proportion of the freight handled on that run, about 20 percent of it constitutes rail-billed freight?

A. That is right.

Q. And is there any difference in the handling of the rail-billed freight on that run as compared with the Victor run?

A. No, sir.

Q. All right. What types of business or industry are located at Kalona and also at Wellman? Tell us about that.

A. No business shipping out. Just general farming community, hardware stores, general stores, drygoods, filling stations, feed stores.

Q. Is that true both of Kalona and Wellman?

A. At Wellman you have your Maplecrest turkey farms

which ship out turkeys, dressed poultry, which is about the only industry that we do business with outbound.

Q. Outbound, what is the usual volume of business that is picked up and brought back to Iowa City on the Kalona-Wellman run?

[fol. 697] A. Except around holiday periods, that is an other empty unit.

Q. At the holiday times, is there a movement of dressed turkeys?

A. That is right.

Q. And dressed poultry from the Maplecrest farm plant there at Wellman?

A. Yes.

Q. Now, do you interline freight with other motor carriers at Iowa City?

A. With one carrier, Hedrick Motor Freight.

Q. Hedrick operates between what points?

A. Burlington and Cedar Rapids.

Q. That is via U. S. highway 218——

A. 218.

Q. —down south?

A. Yes; down to, I think, Olds, isn't it? and then across.

Q. Do you on occasion receive shipments at Iowa City from concerns such as Watson, Merchants Motor Freight, or Poole Transfer?

A. No, sir.

Q. Now, what service do you operate out of Cedar Rapids by way of Iowa City? What trucks pass through Iowa City en route to either points west or east or south of Iowa City?

A. We have a Cedar Rapids-to-Ottumwa unit.

Q. How does that operate?

A. That unit operates down 218 to Iowa City, down to the junction of No. 22 on 218, across 22 to Lone Tree, Nichols, I think it is 76 down to Columbus Junction, across [fol. 698] into Muscatine, back over to Fairfield and down west to Ottumwa.

Q. About what time does that truck pass through Iowa City, if you know?

A. Usually around 8 o'clock in the evening.

Q. That is overnight service or an evening service out of Cedar Rapids?

A. That is right.

Q. South and southwest. What other service to and from Cedar Rapids?

A. Cedar Rapids to Davenport. Cedar Rapids to Chicago. If tonnage permits, you have your Cedar Rapids to Des Moines.

Q. Now, is there any other peddler run other than the ones you have told us about operated through the Iowa City terminal from any point?

A. Well, your Des Moines to Chicago, your Des Moines to Davenport, would be the only other ones.

Q. Now, are you familiar with the manner in which the shipments destined into West Liberty are handled?

A. They are dropped off by the through units. For instance, your Chicago to Cedar Rapids, your Chicago to Des Moines, Davenport to Des Moines, Davenport to Cedar Rapids, Davenport to Iowa City, Des Moines to Davenport, Des Moines to Chicago, Cedar Rapids to Chicago, Cedar Rapids to Davenport. On occasion, if tonnage permits, your Ottumwa units both ways all drop at the West Liberty [fol. 699] freight house.

Q. Any one of those may perform service into West Liberty either from the east or west?

A. To the freight house; yes.

Q. Most of these runs that you have referred to are to and from Cedar Rapids, passing through Iowa City, are evening or night——

A. Yes.

Q. —departure hours. Mr. Schwab, have you had any requests for transportation that you have been forced to turn down because of the 5,000-pound restriction?

A. Yes; we have.

Q. Tell us about that, what your experience has been.

A. We have had return merchandise from the Veteran's hospital destined into Chicago we have turned down.

Q. How much was involved in that?

A. A whole truckload.

Q. A whole truckload?

A. We have had shipments from Maplecrest we have turned down. We have had——

Q. Those were in excess of 5,000 pounds?

A. Yes. We have had shipments from Moore Business Forms that were in excess of 5,000 that we had to turn down. I believe we had one or two out of Economy Advertising that we refused on account of the 5,000-pound restriction.

Q. Those requests for transportation service, have they [fol. 700] been more or less continuous over the last 4 months?

A. Every once in a while one comes in.

Q. How are such shipments actually transported? Can you tell us about that?

A. You mean what——

Q. What does the shipper do?

A. They find another carrier to take it.

Q. Do you know what carriers are the ones that have handled those shipments?

A. Merchants Motor Freight, Poole, and one I am thinking of, it would be almost impossible to tell. It is a combination terminal and first truck in gets it.

Q. Do Merchants Motor Freight and Poole Transfer have any local agent located at Iowa City?

A. No. They have a transfer company who handles their——

Q. That is the Mahr Brothers Transfer, I believe.

A. Mahr has Poole, Des Moines Transportation, Iowa-Nebraska. Merchants Motor Freight is handled by Mr. Warren.

Q. That is the Iowa City Transfer and Storage Company?

A. Transfer and Storage.

Q. I don't believe we have the figures in the record with respect to your tonnage. Has there been, since the 5,000-pound restriction has been in effect, any decrease in the volume of your tonnage originating at Iowa City and destined to any point on the Rock Island Motor Transit or for interline with other carriers?

[fol. 701] A. You are talking about the outbound tonnage?

Q. Yes.

A. I don't think the outbound has decreased too great. It has decreased some.

Q. What about your inbound?

A. Inbound has decreased considerably.

Q. And about what would you say, percentage-wise or in tonnage or in revenue, that that decline has amounted to?

A. I don't have any exact figures on it, but I would say it very safely would be 25 percent.

Q. As compared with the revenues that were received on inbound tonnage prior to the imposition of those restrictions?

A. That is right.

Q. Are you familiar with the community known as Coralville?

A. Yes, sir.

Q. Coralville is located where?

A. Located due west of Iowa City approximately a mile.

Q. On what highway?

A. On U. S. highway 6.

Q. And what firms or industries are located at Coralville?

A. We have one firm, Dan's wholesale, who receive quite a bit of inbound tonnage. You have your River Products Company, your Great Lakes Pipe Line.

Q. What is the nature of the business of the River Prod-
[fol. 702] ucts Company?

A. It is a rock quarry.

Q. What shipments do they make by truck?

A. It is usually repair materials such as burned out motors, pulleys, broken pulleys.

Q. It would be equipment of various types and kinds?

A. Yes.

Q. Including parts for their equipment?

A. Their crushers and their truck; yes.

Q. You said the Great Lakes Pipe Line has some kind of a place of business out in Coralville. What is the nature of the business of that?

A. They have a bulk plant there, gas plant. They receive oxygen and acetylene.

Q. That is the iron containers?

A. Yes; and they are doing quite a bit of construction work there now, which includes all kinds of construction material. Mainly, it is what you would call supplies.

Q. Including valves and fittings?

A. That is right.

Q. And pipe. What is the nature of the establishment that the Great Lakes Pipe Line Company has out there?

A. It is just a bulk gas terminal.

Q. They load trucks there?

A. Trucks with gas.

[fol. 703] Q. Gasoline, and they load them from the pipe line at the terminal?

A. Yes.

Q. This concern that you referred to as Dan's wholesale, can you tell us something about the nature of the business in which that concern is engaged?

A. He is a small, independent wholesaler who jobs to surrounding towns and communities around Iowa City. He gets in a considerable amount of merchandise in the form of candies, foods, edibles which we bring in to him.

Q. Is there any carrier to your knowledge that performs a regular transportation service other than the Rock Island Motor Transit Company to and from Coralville and makes deliveries there without extra charge?

A. Not a regular service; no.

Mr. Howland: You may cross-examine.

Cross-examination.

By Mr. Fowler:

Q. At Iowa City the Rock Island Motor Transit does the pickup-and-delivery service for both the Rock Island Railroad and the Rock Island Motor Transit Company?

A. That is right; yes, sir.

Q. And the same pickup truck picks up rail-billed freight as well as motor carrier-billed freight?

A. The same pickup truck; yes.

Q. And the driver is an employee of the Rock Island [fol. 704] Motor Transit Company?

A. Yes, sir.

Q. And where is the terminal of the Rock Island Motor Transit in Iowa City?

A. 635 South Van Buren Street.

Q. Is it in the freight depot of the Rock Island Railroad?

A. It is in one end; yes.

Q. In other words, the Rock Island Motor Transit Company dock is located in the Rock Island freight depot?

A. One end.

Q. One end, and the Rock Island Railroad is at the other end?

A. That is right.

Q. And a pickup truck which has rail-billed freight brings it into the dock and what does he do with it, put it in the rail end or the truck end?

A. It is unloaded and given to the railroad at what we call an intermediate transfer point, which is for labor and union difficulties taken to the transfer point, the bills are given to the rail employes, the rail foreman, who checks it, and takes it into the rail freight house.

Q. As I understand then, the dock is just an open dock?

A. It is an enclosed dock.

Q. There is no separation between rail and——

A. No; just——

Q. No physical separation?

[fol. 705] A. Just paint on the floor means a lot.

Q. I understand that. So that what you have there is the one dock without any physical separation as far as partitions are concerned?

A. No; but definitely a motor end and a rail end.

Q. That is right, and the union that runs the railroad dock is a different union than that which runs the motor carrier dock?

A. Very definitely.

Q. So you picked out a neutral zone in the middle, is that right?

A. That is right.

Q. What kind of a record do you keep of the rail freight that is picked up by Rock Island Motor Transit Company's pickup truck?

A. That is picked up by them?

Q. What kind of a record do you keep of the rail freight that is picked up by Rock Island Motor Transit Company's pickup truck?

A. That is picked up by them?

Q. In other words, your pickup truck goes out and picks up rail freight, bring it into the dock. What kind of a record do you keep of that?

A. We just keep a record of the actual tonnage hauled; that is all.

Q. The actual tonnage hauled?

A. Yes, sir.

Q. What do you do with that record?

A. Put it against the record of the payment we receive for our contract for hauling it.

Q. That is what I want to find out. In other words then, you do keep a record of the tonnage which is picked up [fol. 706] for the railroad by the Rock Island Motor Transit Company's pickup truck?

A. That is right.

Q. And do you make that charge there or is that done by the home office?

A. Settlement is made by the railroad and turned over to us and run through our accounts and——

Q. All right, that is enough. On what basis is that charge made? What is the unit charge? How do you assess the cost for that service against the railroad company? Upon what basis?

A. On the contract.

Q. What is the contract?

Mr. Howland: What is the contract rate?

Mr. Fowler: Yes; that is right.

A. Minimum stop, 25.

By Mr. Howland:

Q. 25 cents?

A. Yes. And I believe it is 6 cents a hundred. It is 6 cents a hundred.

Mr. Howland: We have the figures on that which will be in more detail.

The Witness: Seven cents on transfer freight.

Mr. Howland: That will be in more detail, I think. That will be shown in more detail.

By Mr. Fowler:

Q. I believe you told Mr. Howland your peddle truck, when it moves out to Victor and also when it moves out to

[fol. 707] Wellman, is loaded with about 20 percent of the tonnage rail freight. Do you get that rail freight from the railroad company or does that come in on truck from some other point?

A. It is a little involved, but let's put it this way: Any freight—normally all freight comes in by the motor transit,

Q. In other words, it comes in on truck?

A. On truck and is unloaded and placed in these holds for these peddle units with the exception of any Burr Oak freight and at times Davenport freight which moves into Iowa City by boxcar is unloaded by the rail and placed in these peddle run units and then the billing is turned over to the Motor Transit for delivery on the peddle unit.

Mr. Howland: I would like to have the record show that Burr Oak is the billing station for Chicago, Ill.

The Witness: Yes.

By Mr. Fowler:

Q. Then as a general proposition, if there is any l. c. l. rail freight destined for points on either one of your peddle runs, it is brought into your terminal at Iowa City by motor truck; correct?

A. Say that over.

Mr. Fowler: Read it.

Exam. Carpenter: Read the question.

(Question read.)

A. No; I would say not.

By Mr. Fowler:

Q. I am not trying to trap you. I misunderstood you.

[fol. 708] A. Because the heaviest volume of traffic moves from the east——

Q. Yes.

A. —so consequently your weight, your volume of freight, moves by boxcar.

Q. Into Iowa City?

A. Into Iowa City.

Q. Oh, I see. In other words, you do have then a merchandise car into Iowa City?

A. From Burr Oak; yes.

Q. And Burr Oak is Chicago?

A. From east of Davenport.

Q. In other words, rail-billed freight from Chicago, which is billed at your billing point of Burr Oak, comes into Iowa City in a merchandise car——

A. Yes.

Q. —and is unloaded by the railroad and turned over to the Rock Island Motor Transit Company for delivery to destination points by truck?

A. That is right.

Q. What about rail freight originating at Moline, for instance?

A. If the tonnage warrants it, at times it moves by boxcar. Normally, it would move by truck.

Q. Now, do you have similar merchandise car moving from the west into Iowa City?

[fol. 709] A. Not always; no.

Q. Is there on occasion?

A. On occasion.

Q. Now, at Marengo you use a local cartage company there?

A. Yes, sir.

Q. And is that the same cartage company that the other carriers use?

A. That I do not know.

Q. Now, let's assume that a shipment in excess of 5,000 pounds is tendered to you at Iowa City for destination on a point served by the Rock Island Railroad. Couldn't you handle it if you billed it on rail billing?

A. I suppose we could; yes.

Q. Now, in other words, if you had a shipment of volume in excess of 5,000 pounds, it could be billed on rail billing and handled on truck, couldn't it, to any point located on your railroad line?

A. No.

Mr. Nolan: You have got your restrictions there again.

A. You have got a key point. You couldn't go into Omaha.

By Mr. Fowler:

Q. All right. The key point then, with the exception of the key-point restrictions, you can't handle that?

A. Yes.

Q. Now, this traffic that was tendered to you which you say you had to turn down, that was given to other estab- [fol. 710] lished carriers that are operating in and out of Iowa City, is that correct?

A. That is right.

Q. Now, on Coralville, this fellow Mahr serves Coralville for these carriers that he does the cartage for, doesn't he?

A. I will say "yes" to the question.

Q. All I know, he told us he did.

A. Let's say he goes out there once in a while.

Q. All right. I was asking about the pickup service in Iowa City. I assume the deliveries are also handled by Rock Island Motor Transit?

A. Yes. We have two units that are assigned specifically to hauling nothing but rail freight.

Q. But they are your units?

A. Yes.

Q. And you have got a deal on those about charging the railroad?

A. Yes; we keep track of it.

Q. Some kind of an arrangement?

A. Yes.

Q. You were talking about your decline in inbound tonnage at Iowa City recently. That is a general experience of the entire trucking industry, isn't it, right now?

A. No. We have never had a decline like we have had now.

Q. That isn't quite like I asked you. I asked you if every other common carrier by motor vehicle wasn't experiencing exactly the same thing in the last 2 months? [fol. 711] A. Tonnage is down a little bit.

Q. So it isn't a sickness that you have only at Iowa City. Don't be mistaken about that.

Mr. Fowler: That is all.

Exam. Carpenter: Redirect.

Mr. Nolan: I want to ask a couple of questions of Mr. Schwab.

Redirect examination

By Mr. Nolan:

Q. What is the fact as to whether or not the cartage company operated by Mr. Mahr makes an additional charge for delivery to Coralville?

Mr. Fowler: Of course, that is objected to as immaterial.

By Mr. Nolan:

Q. If you know.

Mr. Fowler: Objected to as immaterial.

Exam. Carpenter: Objection overruled. Go ahead.

A. I don't believe that he is making any additional charge now.

By Mr. Nolan:

Q. Has he been making it?

A. He did at one time; yes.

Q. What is the fact as to whether or not there are pool cars or whatever other kind of cars you want to call them, a carload of machinery come to Iowa City and the machines are destined to various dealers in that area and then move out by either the dealer himself or by truck line?

A. I haven't had an occasion to use such a method since I have been at Iowa City.

Q. Then Iowa City isn't a place where they ship in a [fol. 712] carload of machinery part of which goes to different dealers?

A. Practically all come in after it themselves.

Q. Who runs this Dan's wholesale house in Coralville? Is that run by Dan Fesler?

A. Dan Fesler.

Q. And was there a witness in route here today for that organization?

A. Both Mr. and Mrs. Fesler.
Q. What happened to them?
A. They had a car accident just this side of Tiffin and returned to Coralville.

Mr. Nolan: That is all.
Exam. Carpenter: You are excused.

(Witness excused.)

Exam. Carpenter: Hearing is adjourned until 9:30 tomorrow morning at the same place.

(At 5 p. m. on Thursday, March 21, 1952, an adjournment was taken until 9:30 a. m. on Friday, March 22, 1952.)

[fol. 713] TRANSCRIPT OF PROCEEDINGS OF MARCH 21, 1952

Exam. Carpenter: We will proceed, if you are ready.
Mr. Howland: I think we are ready.
Mr. Nolan: Mr. Reed.

FRED L. REED was sworn and testified as follows:

Direct examination

By Mr. Nolan:

Q. State your name, place of residence and occupation, Mr. Reed.
A. Fred L. Reed, Carson, Iowa.

Mr. Fowler: What town?
The Witness: Carson, Iowa.

By Mr. Nolan:

Q. What is your occupation?
A. Lumberman, manager of a lumber yard.
Q. Do you handle the usual line of building materials and supplies?
A. Yes, sir.
Q. Including paints and hardware?

A. Yes.
Q. And fence and things of that character?
A. Yes.
Q. Where is Carson located?
A. Thirty-five miles east of Council Bluffs.
Q. On what highway?
A. Well, we are four miles south of No. 6
Q. Are you located on a railroad?
[fol. 714] A. Yes.
Q. Is that station on the Rock Island?
A. Well, the Rock Island comes in from the north and the Burlington comes in from the south the next day.
Q. You are on a branch, are you not?
A. Yes.
Q. What main highway are you on, if any?
A. Well, 100 goes through right at the edge of town, east and west.
Q. Is that Iowa 100?
A. Yes.
Q. Is that a paved highway?
A. No, sir.
Q. Black top?
A. No, just gravel.
Q. Gravel?
A. Very rough.
Q. Do you have any shipments coming into your place of business from outside of the State of Iowa?
A. Yes, sir.
Q. What are they?
A. We buy all of our hardware from Minneapolis, and we get some merchandise from Chicago, not a great deal though.
Q. How about Omaha?
A. From Omaha, we get a great deal from Omaha, Waterloo and Cedar Rapids.
[fol. 715] Q. How have those shipments been coming into your place of business?
A. Well, practically everything from those places by the Rock Island Motor Transit.
Q. How long have you been in business at Carson, Mr. Reed?

A. About two and a half years.

Q. During that time have you used the Rock Island Motor Transit service?

A. Yes, sir.

Q. I will ask you whether or not you have shipments that are in excess of 5,000 pounds per shipment on occasions?

A. No, I don't think we have ever had but about one.

Q. Was that recently or sometime ago?

A. No, that was a year ago, last summer.

Q. Who handled that?

A. Rock Island Motor Transit.

Q. What has been the character of the Rock Island Motor carrier service, has it been satisfactory or otherwise?

A. Absolutely satisfactory.

Q. State whether or not the continuance of the Rock Island Motor carrier service is reasonably essential and necessary for the conducting of your business at Carson.

A. Well, it is the quickest way we can get anything from the east and north, and we have always found them very fair with our claims. We have had very few claims, [fol. 716] but they have been taken care of promptly.

Q. Have you had any experience in comparing the claims against the Rock Island Motor Transit Company and damage claims against other motor carriers?

A. Not in Iowa, but I know what some of them are in Nebraska, and they have been pretty tough. But not in Iowa, I have never had a chance, because that is the only one we have ever had there.

Q. Is there any other carrier providing the same service as Rock Island Transit?

A. Thornton Transfer from Griswold.

Q. What is that carrier?

A. Thornton Transfer from Griswold runs in and out from Griswold to Omaha and back every day.

Q. But does not provide a direct service from the east, as I understand it?

A. No.

Mr. Howland: East or north.

By Mr. Nolan:

Q. East or north, like the Twin Cities or Chicago?
A. No.
Q. Or Kansas City?
A. No.

Mr. Nolan: That is all. You may cross-examine.
Exam. Carpenter: Mr. Fowler?
[fol. 717] Mr. Fowler: No cross-examination.
Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Nolan: Mr. Saar.

HARVEY SAAR was sworn and testified as follows:

Direct examination

By Mr. Nolan:

Q. Will you state your name, place of residence and occupation?
A. Harvey Saar, Treynor, Iowa.
Q. What is your business?
A. Well, I am here partly as secretary-treasurer of the Wes-Pot Seed Co-op, and I am a retired farmer at other times.
Q. Secretary of the West what?
A. Treasurer of the Wes-Pot Seed Co-op. That is a hybrid seed co-operative.
Q. When you say, "Wes-Pot," do you mean Pottawattamie?
A. That is a registered name. It is incorporated under that, W-e-s P-o-t.
Q. I suppose that is an abbreviation of Pottawattamie?
A. Yes.
Q. What is the general business of this co-op that you are speaking about?
A. Production of hybrid seed corn.
Q. Where is Treynor located?

[fol. 718] A. About 14 miles east of Council Bluffs on Highway 100.

Q. What shipments, if any, does Wes-Pot Seed Co-op handle?

A. There are some shipments, probably the heavier shipments are for this company, and the lighter loads are for the miscellaneous other companies in town. Recently we had to import some seed corn as we had some losses there due to frost. We had 600 bushels of corn come from La Porte City, Iowa, and, of course, we had to negotiate with outside truckers because that is about 17, 18 tons. That cost us 50 cents a mile for the hauling. I don't know how that compares with commercial companies.

We also get sack shipments, such as 10,000 to 15,000 sacks out of Kansas City in a year; they come in from Kansas City.

Q. What size shipments do those sacks come in?

A. The whole thing would come in one load and that would make a pretty good sized load.

Q. That would come in one load?

A. Yes.

Q. How would that come in?

A. They sent it up on—I don't know what trucking firm that was, whether that was an individual company or not. It seems to me that it might have been Watson maybe. I am not sure on that.

Q. Mr. Saar, what service has the Rock Island Motor Transit Company provided the company you represent so far as you know, if any?

[fol. 719] A. Well, we often or sometimes have to get repairs. These corn graders are made at Cedar Falls that are used in corn grading, and in an emergency it has been a benefit to us to get transportation in from the east, because if this had to go to Omaha and back it would be another three, four, five days' delay, which often is the case.

Q. How about any shipments coming from outside of the State of Iowa, has your company had occasion to have those shipments made by the Rock Island Motor Transit Company?

A. Only those that I just mentioned from Kansas City. Our sacks are bought down there mostly.

Q. Do you have any outbound s.. ments?

A. No, it is local.

Q. Does your company handle anything else besides seed corn?

A. No.

Q. And has the Rock Island Motor Transit Company provided a service there to your company?

A. Yes.

Q. Was the service that the Rock Island Motor Transit Company gave your company satisfactory or otherwise?

A. Very good.

Exam. Carpenter: Off the record.

(Discussion off the record.)

By Mr. Nolan:

Q. What is the population of Treynor?

A. 315 approximately.

[fol. 720] Q. What business establishments are in the town of Treynor?

A. Well, if it is a normal town, it has a hardware store, a couple of implement houses: the public school there uses its service probably as mu.. as anyone else in smaller shipments.

Q. Does Treynor have the usual retail stores and service establishments that a town of 315 has in the ordinary agricultural community in Iowa?

A. I would say they do.

Q. Do you have a school there?

A. A consolidated school there.

Q. What railroad, if any, is Treynor located on?

A. None.

Q. It doesn't have any railroad?

A. No.

Q. Do you hold any office there in any commercial organization or public official?

A. No.

Q. Do you have any personal knowledge as to how shipments come into, say, for instance, the school district there?

A. Yes. I inquired to be informed to see if it was of

any value, and Mr. Mann, the superintendent, said that they have perishables coming in. They have free lunch——

Mr. Fowler: Just a moment. I am going to object to the witness testifying as to what somebody told him for the reason that it is not proper evidence, and it is purely hearsay.

[fol. 721] Exam. Carpenter: Objection sustained.

Mr. Nolan: That is all.

By Mr. Howland:

Q. Mr. Saar, let me ask you, what other transportation service do you have for Treynor other than the service of the Rock Island Motor Transit Company?

A. The Thornton Transfer hauls between Griswold and Omaha, and it is a one-way deal. Your western delivery is all right. There is nothing east, north or south.

Q. In other words, there is no way of getting any shipments by Thornton Truck Line from north, south or east connections, is that right?

A. That is right.

Q. Do you know about what the service of Thornton Truck Line has been to and from Treynor, are you familiar with that?

A. Well, yes, I have lived there all my life, near there or next to Treynor, and they gave the only service available at the time until the Rock Island came in. We have nicer service from Rock Island. What I mean when I say nicer is that they will deliver to your door or they will see that you get it, and oftentimes when Thornton came through and does come through if you are not right at your place of business,—and these small towns have that complication, a lot of times you are not there—he will take it back and bring it the next day.

Q. As a matter of fact, Thornton's usual time of coming out from Omaha is relatively late in the day, is it not?

[fol. 722] A. Yes, it is, right in the evening, right around 6:00.

Q. And do you know about how many units of equipment Thornton operates?

A. Treynor's service is the one truck and then he has a passenger bus, a passenger car.

Q. As far as you know, is that the extent of the equipment which Thornton operates?

A. Yes, it is.

Q. There is a newspaper published at Treynor, I believe?

A. That is right.

Q. And is this a consolidated school that you referred to there, Mr. Saar?

A. Yes.

Q. Do you know, not from what was told to you by somebody else, but do you have any knowledge from having served on the school board or having any contact with the matter as to what the interest of the school people is?

Mr. Fowler: Just a moment.

Mr. Howland: Make your objection, Mr. Fowler.

Mr. Fowler. I will when I get around to it. Just take it easy, my friend. I want to object to it as it is hearsay, unless he is testifying to some fact of which he has personal knowledge.

Exam. Carpenter: Let him answer the question. He is asking about his knowledge.

[fol. 723] A. I can answer it this way. I worked at the school installing an electric communication system in the school, and I was there about a week in the construction of that. I do know that perishables are delivered to the school because they have free lunches there, and they are delivered by the Rock Island.

Q. About how far is it from Treynor to the nearest railroad point where there is rail service available?

A. Ten miles to Silver City, and it would be 10 miles to McClelland. It would be 14 miles to Council Bluffs, and it would be 10 miles to Carson, but that wouldn't be any rail service, because that is hardly adequate for Carson.

Q. That is on a tri-weekly basis with both the Burlington and Rock Island roads alternating, is it not?

A. Yes.

Mr. Howland: That is all. Thank you.

Exam. Carpenter: Cross-examine.

Mr. Fowler: I would like to ask counsel for the applicant if the town of Treynor is a point involved in this application.

Mr. Howland: It is not on Highway No. 6. It is a point involved in the application because of the fact that it cannot be reached by the applicant except over Highway 6.

Mr. Fowler: I am now looking at the list of points to be served that is included in the application, and I don't find the town of Treynor listed.

Exam. Carpenter: It probably should not be listed, but it [fol. 724] is due to the 5,000-pound restriction on Highway 6 and they can't get it there.

Mr. Fowler: Is that true?

Mr. Howland: Yes. It is not located on Highway 6. It is on a route out of Council Bluffs over which the trucks operate via Highway 100, but they come back on to Highway 6 and operate in part over that.

Exam. Carpenter: At Atlantic?

Mr. Howland: At Atlantic, but it is necessary that we operate on Highway 6 to reach the town of Treynor or perform a service there.

Mr. Fowler: And it is located on Highway 6, but it is not located on the Rock Island Railroad?

Mr. Howland: No, it is not on Highway 6.

Exam. Carpenter: It is on Highway 100.

The Witness: Highway 100. It is a state road, Highway 100. You have to go through it. You can't miss it.

Cross-examination.

By Mr. Fowler:

Q. Anyway, Mr. Saar, as far as you are concerned, in the operation of your seed plant the only service that you have from any point outside of the state has been these heavy shipments of sacks or seed corn, and that is sent to you by some other truck line?

A. That is right.

Q. Other than Rock Island?

[fol. 725] A. That is right.

Q. Watson Brothers handled one of them and you don't know who handled the other one?

A. You just shop out for the various services.

Q. So far as your shipments from outside of the state

are concerned, you haven't had any occasion to use the Rock Island service into your town?

A. Anything from the east we would use what we could.

Q. Thornton Transfer is in there every day with a truck?

A. They have a daily route through there.

Q. And they operate from Omaha out into this territory?

A. They come from Griswold, which is 24 miles east.

Q. Is Thornton Transfer Company a regular common carrier that would have a right to interchange with other carriers at Omaha?

A. I would assume so. I can't answer that.

Mr. Fowler: That is all.

Mr. Howland: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Nolan: Mr. Beranek.

ARTHUR BERANEK was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you give us your name, your place of residence and occupation?

[fol. 726] A. Arthur Beranek, Kalona, Iowa; I am manager of the Farmers Supply Sales, a machinery business in Kalona.

Q. Where is Kalona located for the record?

A. At the junction of 1 and 2, state highways.

Q. And that is about 20 miles southwest of Iowa City, is it not, Mr. Beranek?

A. That is right.

Q. You have a little highway, paved highway, in Kalona, Highway No. 1 from Iowa City?

A. Yes.

Q. You say you are in the implement business?

A. Yes.

Q. Anything else besides farm implement and machinery business?

A. We have some appliances.

Q. What type of appliances?

A. Washing machines, gas stoves and refrigerators.

Q. You testified before in this other case, did you not?

A. Yes.

Q. And you understand the nature of the proceedings here?

A. Yes.

Q. The Rock Island Transit Company is attempting to get permanent authority to continue the Rock Island Motor Transit, motor carrier service, into Kalona?

A. Yes.

Q. From what out of state points do you have merchan- [fol. 727] dise coming to your place of business at Kalona?

A. We have them from Kewanee, Illinois; Sandwich, Illinois, and Chicago.

Q. What shipments are made from those points?

A. Repair parts mostly and appliances from Chicago.

Q. What would be the ordinary size of shipments that you get from those points?

A. Oh, seldom more than 1,000 pounds, I would say.

Q. Have you ever had occasion to get shipments in excess of 5,000 pounds from any of those points?

A. I don't believe so.

Q. How long have you been connected with the company there in Kalona?

A. About four years in the last five.

Q. Kalona is how large a town?

A. About 800 population, I believe.

Q. And it has the usual retail and service establishments, is that not true, for a town that size?

A. Yes.

Q. In a good fertile agricultural area?

A. I believe more than some.

Q. Didn't you have a turkey dressing plant there at one time?

A. We have now.

Q. Is that still operating?

A. It is just new. It has only been operating for a year or so.

[fol. 728] Q. Is anybody here today from that organization?

A. No.

Q. And that is where they dress turkeys and ship them out, is that right?

A. Yes.

Q. Around Kalona what is the fact whether or not there are a lot of turkeys raised, around Kalona and Wellman?

A. Yes, there is.

Q. What railroad line is Kalona located on?

A. Rock Island.

Q. Is that a main line or branch line?

A. I believe you would call it a branch line.

Q. What is the type of service that the railroad provides Kalona? You don't need to be afraid of hurting anybody's feelings.

A. We usually get what we order by railroad, but we can't depend on the time and the service isn't like we like to have it.

Q. How do you get most of your shipments in there?

A. Most of them come in on the Rock Island truck.

Q. Rock Island Motor Transit truck?

A. That is right.

Q. What has been the nature of that service, satisfactory or otherwise?

A. Very much so.

Q. Are there any regular route trucks operating through Kalona, Iowa?

[fol. 729] A. No.

Q. Are there any other truck lines operating through Kalona other than the Rock Island Motor Transit Company?

A. No.

Q. What would be the effect on your company's business if the Rock Island Motor Transit Company was required to cease operating as it has been operating?

Mr. Fowler: That is objected to as immaterial for the reason there is no such fact established in this record or no such contention being made by the applicant.

Exam. Carpenter: The objection is overruled. Go ahead and answer.

The Witness: What was the question?

Exam. Carpenter: Read it.

(Question read.)

A. Well, it would just be inconvenient for ordering parts and depending on them the way we do now.

By Mr. Nolan:

Q. Do you know of any other service you could get that the Rock Island Motor Transit is now giving you?

A. Not through Kalona.

Mr. Nolan: You may cross-examine.

Mr. Fowler: No cross-examination.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Nolan: Mr. Gates.

[fol. 730] W. L. GATES was sworn and testified as follows:

Direct Examination.

By Mr. Nolan:

Q. Will you give the reporter your name, place of residence and occupation, Mr. Gates?

A. W. L. Gates, and I live at Washington, Iowa; I am in business with my two sons at Kalona.

Q. How far is Washington, Iowa, from Kalona?

A. About 16 miles.

Q. Do you commute back and forth?

A. Right.

Q. What business are you in in Kalona?

A. We have the Chevrolet and John Deere franchise.

Q. You are the Chevrolet dealer and the John Deere dealer?

A. Right.

Q. As Chevrolet dealer you handle Chevrolet automobiles and parts and supplies, I assume?

A. We do.

Q. As John Deere dealer you handle the John Deere farm implement line, is that correct?

A. And parts.

Q. And parts?

A. Yes.

Q. Do you handle any other line of farm equipment and machinery, Mr. Gates?

[fol. 731] A. Not major but a few. We have such things as manure loaders, post hole diggers, wagon loaders and odds and ends of that kind that John Deere doesn't make that we handle.

Q. You handle the general farm equipment line?

A. Yes.

Q. Hog waters and tanks?

A. Not hog waters, not much in the hardware line.

Q. You testified before in this case. You understand, do you not, the general nature of what has been developed here?

A. We are very much worried about it.

Q. What did you say?

A. We are very much worried about it.

Q. Why.

A. Without the Rock Island Motor freight I don't know just what we would do. I suppose we would have to hire another man, an extra truck. What we would do to take care of our parts service is a problem I hope we don't have to figure out.

Q. What out of state shipments do you have coming into your place of business at Kalona?

A. John Deere at Moline is a good share of it, but not all of it. The main warehouse for parts is at Moline and a good share of the machinery comes from Moline.

Q. How about your Chevrolet parts?

A. The large part comes from Des Moines, but all back orders come from Chicago and Janesville.

[fol. 732] Q. With what frequency would you say you have shipments coming into your place of business by the Rock Island Motor Transit Company?

A. We very seldom miss a day.

Q. And what would be the average size of the shipments, Mr. Gates?

A. Oh, average would be hard to determine because it is from 100 pounds up to a ton.

Q. Did you ever have occasion to have shipments come in excess of 5,000 pounds?

A. I believe not.

Q. You say there isn't any other truck service available?

A. None whatever.

Q. And the rail service is very slow, is it not?

A. It comes in anywhere from 4:00 o'clock until 7:00 o'clock at night once a day and goes back sometime during the night. I wouldn't brag about the Rock Island Railroad service. They don't have the facilities there. It is just a branch from Iowa City to—I forget how far west it does go.

Q. And it handles primarily carload shipments of coal and things of that kind?

A. Right.

Mr. Nolan: That is all.

Exam. Carpenter: Cross-examine.

Mr. Fowler: I have just a few questions.

[fol. 733] Cross-examination.

By Mr. Fowler:

Q. Do you have a regular daily rail service from Iowa City into Kalona?

A. It comes in in the evening after our closing hours, as a rule.

Q. On l.c.l. shipments?

A. Sir?

Q. On small shipments, l.c.l. freight?

A. You mean on the railroad?

Q. Yes.

A. I suppose they would handle anything, but you wouldn't be able to get it that day, because their office is locked when it comes in.

Q. I didn't understand that they did have. They do have then a regular daily way freight service into Kalona by railroad handling l.c.l. shipments?

A. I don't believe I understand what l.c.l. shipments mean.

Exam. Carpenter: Less than carload.

The Witness: Less than carload?

By Mr. Fowler:

Q. Yes.

A. That I wouldn't say because we never had anything less than carload come in.

Mr. Fowler: That is all.

Mr. Howland: If you are interested in the fact, it is true that except for extremely heavy or bulky l.c.l. shipments, [fol. 734] any rail shipments that they move from Iowa to Kalona are by Rock Island Motor Transit truck. Now, this service on the branch line goes from Iowa City down through Riverside, Kalona, Wellman and the terminus of that branch is at Montezuma, Iowa, and this train handles only as far as Wellman and Kalona are concerned only the extremely heavy and bulky l.c.l. items. They do render l.c.l. service to points farther west on that line where the Rock Island Motor Transit Company does not possess motor carrier authority.

Mr. Fowler: I see. Thank you. That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Nolan: Mr. Swartzendruber.

ELLIS SWARTZENDRUBER was affirmed and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you give the reporter your name, place of residence and occupation?

A. Ellis Swartzendruber; I am secretary-treasurer of the Washington County Farm Stores at Kalona.

Q. How long have you been connected with that business?

A. Five years.

Q. What is the nature of the business handled by your company?

A. Farm implements.

Q. What line of farm implements?

[fol. 735] A. J. I. Case.

Q. And you handle parts for Case tractors and other case machinery?

A. Yes, sir.

Q. Does the J. I. Case Company make a full line of farm equipment, tractors, combines and plows?

A. Yes, sir.

Q. Disks and everything else?

A. Yes.

Q. In addition to the J. I. Case line what other farm equipment do you handle?

A. We handle accessories and accessory items such as manure loaders, farm wagons and we also handle the New Holland line.

Q. Manure loaders, farm wagons and things like that are made by other companies other than the J. I. Case Company?

A. That is right.

Q. From what out of state points does your company have merchandise shipped into your place of business?

A. Rockford, Illinois; Racine, Wisconsin, and Streater, Illinois.

Q. And with what frequency would you say you would have shipments come into your place of business in less than truck loads or less than truck load quantities?

A. Four to five days a week.

Q. What company has been bringing those shipments to your place of business?

[fol. 736] A. The Rock Island Motor Transit.

Q. What has been the character of that service, satisfactory or otherwise?

A. Very satisfactory.

Q. You heard the testimony of Mr. Gates and Mr. Beranek that there are no other truck companies available to serve Kalona?

A. That is right.

Q. Do you know of any truck company that would provide a similar service to the Rock Island Motor Transit?

A. No, sir.

Q. Do you have any shipments that exceed 5,000 pounds in weight?

A. Very seldom.

Q. That you would have occasion to use the Rock Island Motor Transit to transport them?

A. No.

Mr. Nolan: That is all.

Exam. Carpenter: Cross-examine.

Mr. Fowler: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Nolan: Mr. Brenneman.

Paul Brenneman was affirmed and testified as follows:

Direct examination.

By Mr. Nolan:

Q. What is your full name, Mr. Brenneman, your place [fol. 737] of residence and occupation?

A. Paul Brenneman.

Q. And you live at Kalona?

A. Yes.

Q. What is your occupation?

A. I am a partner in the Minneapolis-Moline Farm Implement business and DeSoto-Plymouth cars.

Q. How long have you been so engaged?

A. Five years.

Q. And Minneapolis-Moline is a manufacturer of farm implements, is it not?

A. That is right.

Q. Including tractors and the other allied line of farm equipment?

A. Yes.

Q. And you say you are a DeSoto dealer here too?

A. Yes.

Q. That is automobile dealer?

A. Yes.

Q. How about Plymouth, do you handle Plymouth?

A. Yes.

Q. Do you handle parts and supplies for both the DeSoto and the Plymouth automobiles in that area?

A. Yes.

Q. You say you are a franchised dealer for the Min-
[fol. 738] neapolis-Moline line farm equipment?

A. Yes.

Q. Where do you get any out of state shipments from, Mr. Brenneman?

A. Moline, Illinois; Peoria, Illinois, and a few from Kansas City.

Q. What transportation agency have you been getting those shipments through?

A. Rock Island Motor Transit.

Q. And have you been familiar with the service of the Rock Island Motor Transit Company during the time you have been connected with the business there in Kalona?

A. Yes.

Q. What has been the nature of that service, satisfactory or otherwise?

A. We like it very good.

Q. Do you know of any other transportation agency other than Rock Island Motor Transit which would give you that daily service in and out of Kalona?

A. No, I don't.

Q. Do you have occasion to make any outbound shipments, such as sending parts to the factory for repairing or sending parts back that you can't use or anything like that?

A. Very seldom.

Q. How about the size of shipments, do you ever have [fol. 739] occasion to receive shipments in excess of 5,000 pounds?

A. Not to my knowledge.

Q. I guess I asked you how frequently you had shipments come in, did I not?

A. About four times a week on the average.

Mr. Nolan: That is all.

Exam. Carpenter: Cross-examine.

Mr. Fowler: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Howland: Mr. Ebert.

WILLIAM EBERT was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, please?

A. William Ebert.

Q. Your home is at Hancock, Iowa?

A. That is right.

Q. Hancock is located south of Avoca and is a point on the new line of railroad that the Rock Island is constructing between Atlantic and towards Council Bluffs?

A. Yes, I think they are going to miss the town about a half mile. I just came back from California night before last and I saw where there was a cut, and I don't know just exactly all the information on that new road, but it is going to miss the town just a little ways.

[fol. 740] Q. Mr. Ebert, what is your business?

A. I am the owner of the Ebert Oil Company.

Q. And that is a distributor of petroleum products located there at Hancock?

A. Tires, batteries, oil and petroleum products.

Q. To what extent, in what territory do you operate that business?

A. My franchise calls for from Avoca on No. 64 down to Hastings, Iowa.

Q. How many dealers or other concerns do you service or sell to, Mr. Ebert?

A. We own several stations around there, that is, have re-sale accounts, I would say about seven.

Q. How many stations do you sell to?

A. That is what I mean, it is about seven outlets.

Q. Seven outlets?

A. Yes.

Q. Do you have occasion to get shipments from outside the State of Iowa?

A. Oh, yes.

Q. What do those shipments consist of, what type and character of commodities?

A. I am just putting in an order today for oils out of Chicago.

Q. That is lubricating oils?

[fol. 741] A. Yes, canned oils, and then we have quite a bit of stuff of the other refinery at Kansas City, Phillips Petroleum Company.

Q. How does that move into your territory there, do you get it by motor truck or how?

A. Our light refined stuff comes in by transport.

Q. By transport truck?

A. Yes, and our spring oils usually come in in carload lots by Rock Island. That is when we have our spring oils and greases. We pool a car and have that come in that way. All other shipments during the year or what they call drop shipments are Rock Island Motor freight.

Q. About what would be the usual size of those shipments that you have been receiving by Rock Motor Transit?

A. Oh, I tell you, we get tires, batteries, greases and stuff like that that you always need. You really have a little shipment on there pretty near every time he stops.

Q. About what size in pounds or weight?

A. We usually want 100 pounds or better.

Q. You have occasion to get shipments in excess of 5,000 pounds, except when you get your carload shipments in?

A. Not very often. That would be a rare case.

Q. But you do have a need for a continual practically daily service?

A. Yes.

Q. To get the products that you sell?

[fol. 742] A. That is right.

Q. Into your place of business?

A. That is right.

Q. What truck service by other carriers do you have at Hancock other than the Rock Island Motor Transit?

A. We have truckers there that truck stock.

Q. Those are truckers that haul livestock to the Omaha market?

A. That is right.

Q. But as far as the common carrier truck line that operates between town or on a regular schedule, do you have any?

A. There a line that goes through there when the roads are open. Of course, we have been on a detour for a long time, a year or so, but there is Iowa-Nebraska that comes through there but they don't service Hancock.

Q. They go through but apparently they have no rights to serve Hancock as such?

A. It seems that way.

Q. At least they don't render that service?

A. No.

Q. And haven't to your business?

A. No, they haven't. They go to Oakland. They deliver to Oakland, but their headquarters are at Avoca.

Q. What business concerns are there located at Hancock, Iowa? There is an elevator, as I recall it, there and several retail stores, including a general store and a hardware store, I believe.

[fol. 743] A. Implement dealer.

Q. And an implement dealer. I believe there are two implement dealers, am I wrong in that?

A. No, there is just the one.

Q. Just the one?

A. Yes.

Q. Other than this service by Rock Island Motor Transit truck which you have referred to, is there any other regular common carrier service available to Hancock, except the Rock Island Motor Transit?

A. No, not at the present time that I know of.

Mr. Howland: I think you may cross-examine.

Exam. Carpenter: Cross-examine.

Mr. Fowler: No cross.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Nolan: Mr. Hibbs.

CHARLES H. HIBBS was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you give us your name, place of residence and occupation?

A. Charles H. Hibbs; I am employed by the Henry Gode Dry Goods Company at Marengo, Iowa.

[fol. 744] Mr. Fowler: Is that Hibbs or Gibbs?

The Witness: Hibbs, H-i-b-b-s.

By Mr. Nolan:

Q. That is a retail merchandise store, is it not?

A. Yes, sir.

Q. How large a town is Marengo?

A. 2112 I believe is the last census.

Q. And your store is the largest retail dry goods store there, is it not?

A. Yes, sir, it is.

Q. How long have you been associated with the store, Mr. Hibbs?

A. Since 1931.

Q. Are you familiar with the source of supply of merchandise for your store?

A. Yes, sir.

Q. What out of state points do you have shipments coming to your store from?

A. St. Louis and Chicago principally.

Q. And with what regularity do you have such shipments coming into your place of business?

A. I believe twice a week.

Q. You average two shipments a week?

A. I believe so.

Q. What would be the size of those shipments?

A. Well, not large. I would say probably between 100 and 300 pounds.

[fol. 745] Q. They are in the nature of ladies' dresses and things of that character?

A. That is right, general dry goods merchandise and also dishes and such as that.

Q. What company has been providing your transportation service for those shipments that you have spoken about?

A. Well, most of it, practically all of it, by the Rock Island Motor Transit.

Q. And how has that service been, satisfactory or otherwise, Mr. Hibbs?

A. It has been satisfactory.

Q. Do you know of any other company that provides a daily motor carrier service in and out of Marengo other than the Rock Island Motor Transit Company?

A. No, sir, I don't.

Q. Have you had occasion to have shipments come into your place of business by other truck companies?

A. Very, very seldom.

Q. That would be an occasional shipment, is it?

A. That is right.

Q. Was it at your specification or was it at the shipper's routing?

A. The shipper's.

Q. The shipper's mistake?

A. Yes.

[fol. 746] Q. Do you specify the routing of your shipments ordinarily?

A. Well, I don't just know about that. I think usually we do not.

Q. But they generally come or practically all come by Rock Island Motor Transit?

A. Yes, that is right.

Q. You say you don't know of any other trucking company that provides a regular motor carrier service to Marengo?

A. That is right.

Q. Marengo is located on the main line of the Rock Island Railroad, is it not?

A. Yes, sir.

Q. But it is located on but off of U. S. Highway No. 6, isn't that true?

A. That is right.

Q. In other words, U. S. Highway No. 6 runs about a half a mile away from the town?

A. That is right.

Q. Or to the side of the town?

A. Yes.

Q. You say the population of Marengo is around 2100. That is the county seat of Iowa County?

A. Yes, sir.

Q. What is the fact as to whether or not Marengo has the usual retail and service establishments of a county seat town in an agricultural community in Iowa?

[fol. 747] A. That is right.

Q. Do you have any industry there?

A. Not in the sense of a factory. We have just a little manufacturing done there.

Q. What?

A. Knipple Studio does advertising work for companies all over the country.

Q. He manufactures these ear corn plates?

A. Along with other things.

Q. Are those metal or plastic?

A. His are masonite.

Q. Don't you have a corn canning factory there?

A. That burned down.

Mr. Nolan: I guess that is all.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Fowler:

Q. You say there aren't any other carriers serving Marengo?

A. No, sir, I don't know of any others that make stops there?

Q. There is a cartage company there, isn't there?

A. There is a transfer company, yes, sir.

Q. And that transfer company is the one that actually delivers the merchandise to your store, isn't it?

A. Yes, sir.

[fol. 748] Q. For the Rock Island?

A. Yes.

Q. And it also delivers for the other carriers that go through there, doesn't it?

A. I can't say about that.

Q. Haven't you had any shipments at all by these other carriers?

A. The occasional ones that we have had they have brought the big truck right to the door.

Q. To your door?

A. That is right.

Q. But you have a service in there by other carriers?

A. Yes, sir, there are other trucks that come into town.

Q. As I understand it, you prefer the Rock Island Motor Transit Company?

A. I think our experience has been that we have had just a little bit better service from them.

Q. And for that reason you prefer them?

A. That is right.

Mr. Fowler: I can't quarrel with you on that.

Mr. Nolan: Are you through?

Mr. Fowler: Yes.

Exam. Carpenter: Redirect?

Redirect examination.

By Mr. Nolan:

Q. Mr. Hibbs, you know of your own knowledge that there are a great number of trucking companies that oper- [fol. 749] ate on U. S. Highway No. 6?

A. Yes.

Q. You see them go by?

A. Yes.

Q. But do those companies operate through the town of Marengo?

A. Occasionally I see a Des Moines Transportation Company truck in Marengo, and I have seen I believe the Iowa-Nebraska truck or some such name.

Q. You say that is the only occasion?

A. Occasionally.

Q. But the point I am trying to get at is the main highway is a half mile out of town or something like that?

A. Yes, sir.

Q. And to get into the town of Marengo you have to cross the railroad tracks, and to leave town you have to cross them again?

A. Yes, sir.

Q. To get back on Highway No. 6?

A. Yes.

Mr. Nolan: That is all.

Mr. Fowler: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Howland: Mr. Flansburg.

A. C. FLANSBURG was sworn and testified as follows:

[fol. 750] Direct examination.

By Mr. Howland:

Q. Will you state your name, please?

A. A. C. Flansburg.

Q. You live where?

A. In Tiffin.

Q. And Tiffin is located where with respect to Iowa City?

A. About eight miles west, just south of Highway 6.

Q. And about what is the population of Tiffin?

A. Approximately 250 people.

Q. And your business is what?

A. I am in the hardware business and president of the local school board.

Q. What business establishments are located at Tiffin?

A. Well, there are two grocery stores, general merchandise stores, and the hardware, which also consists of appliances and seed, and complete locker plant and service. Of course, the regular average taverns and barber shop and filling stations.

Q. I understand there is a very nice restaurant there?

A. The food is fine. We supply the fuel for them.

Q. In connection with your business, Mr. Fransburg, do you have occasion to get the merchandise which you handle from points outside the State of Iowa in some instances?

A. Our water pressure systems come from Meyers and Sons in Ashland, Ohio; our filters and softeners from Minneapolis, Minnesota; our lawn mowers and another [fol. 751] brand of water systems, pressure systems, we handle from Racine, Wisconsin, and stoves from Quincy, Illinois. The school receives most all of their janitorial supplies and most of their school supplies from Galesburg, Illinois.

Q. I take it that there is a more or less continuous flow of traffic, perhaps not in large shipments, but that these shipments are moving into Tiffin regularly from interstate points?

A. Yes, sir.

Q. By what means, what service is availed of for the handling of shipments of that character?

A. Do you mean who brings the merchandise?

Q. Who brings the merchandise into your place?

A. The Rock Island Motor Transit.

Q. What other transportation agencies in the motor carrier field serve the town of Tiffin?

A. I have been in Tiffin 15 years with the exception of during the second World War I was in the Sub-Marine Service three years, and I am not acquainted with any carrier service that stops in Tiffin.

Q. Of course, Tiffin is located, as you said, immediately south of Highway No. 6?

A. Yes.

Q. I take it that there are a large number of truck lines that operate through on U. S. Highway No. 6?

A. Oh, yes, there are.

[fol. 752] Q. But do any of those truck lines within your knowledge and your experience perform any service to the Tiffin community?

A. Not that I know of.

Q. About what would be the size of the shipments that your merchants would have occasion to make there at Tiffin, that is as to the maximum size? Do they need service of more than 5,000 pounds for a single shipment?

A. Seldom.

Q. Only on occasion?

A. Seldom.

Q. The only occasion would be if there were an unusual condition where some very heavy or bulky merchandise was ordered in quantity?

A. Yes.

Q. Do you understand that the Rock Island Motor Transit Company at present is operating on a purely temporary authority as far as interstate service is concerned?

A. That is the only reason I am here.

Mr. Bradshaw: I object to that as leading.

Exam. Carpenter: I will overrule the objection. Go ahead. I didn't get the answer.

The Witness: That is the only reason I am here.

By Mr. Howland:

Q. What would be the effect on your community and the people doing business there in the event that the present Rock Island Motor Transit service was entirely [fol. 753] eliminated or substantially curtailed?

Mr. Bradshaw: I object to that question on the grounds that it is irrelevant, immaterial and the record doesn't show that any such situation exists.

Exam. Carpenter: The objection is overruled. Go ahead and answer.

The Witness: What was the question?

Mr. Howland: Will you read it?

(Question read.)

A. It would hurt our business a lot. It would slow things down quite a bit.

By Mr. Howland:

Q. Tiffin was a station on the Rock Island Railroad. Do they still have any depot there?

A. No.

Q. It burned down some years ago?

A. Yes, and the train ran through a little shed they set up.

Q. And it hasn't been replaced?
A. No.
Q. Is there any regular truck service serving Tiffin from Iowa City?
A. No.
Q. Would you say, Mr. Fransburg, as far as the people of Tiffin are concerned, and particularly the merchants doing business there, that a continuation of the Rock Island Motor Transit service in interstate commerce is required by that community?
[fol. 754] A. The school and my place of business needs it partly. I have not polled the rest of the merchants.

Mr. Howland: That is all.
Exam. Carpenter: Cross-examine.
Mr. Fowler: No questions.
Exam. Carpenter: You are excused.
Mr. Howland: Thank you very much.

(Witness excused.)

Mr. Howland: Mr. Rathjan.

CLARENCE RATHJAN was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name please so that we can all get it?
A. Clarence Rathjan.
Q. And you live at Marengo, Iowa?
A. Marengo, Iowa.
Q. What is your business?
A. In the automobile business.
Q. Are you a dealer in new cars?
A. Yes, we sell Ford cars and trucks.
Q. You have the Ford agency?
A. That is right.
Q. In that general territory, in Marengo?
A. That is right.

[fol. 755] Q. How long have you been in business there?

A. Since 1925.

Q. And I believe you were here while Mr. Hibbs was on the witness stand?

A. That is right.

Q. Is there anything that you could add with respect to the type and character of the community of Marengo as far as the business which is there carried on to what Mr. Hibbs has said?

A. I don't know that there is much that we could add on to what Mr. Hibbs has mentioned. You asked him about the factory and there is only just the one small factory. We have a seed plant, seed corn plant, there. Of course, that is not really a factory.

Q. That processes seed corn?

A. That processes its own seed corn.

Q. That is the Pioneer Hybrid?

A. Pioneer Hybrid, yes, and we have Swift and Company.

Q. That is a produce company?

A. Produce company.

Q. Produce and poultry?

A. Yes.

Q. And retail stores, of course, you have the usual drug stores, a number of grocery stores, general merchandise stores and some chain organizations and matters of that sort?

A. Hardware stores and implement dealers.

Q. Implement dealers?

[fol. 756] A. Yes.

Q. The Iowa County Highway Department keeps its equipment for highway maintenance work, I believe, at Marengo?

A. Yes, the highway.

Q. And the Iowa County Highway Department maintains a number of road service trucks and patrol grader units and things of that character?

A. Yes. They have what we call a repair shop and service there at Marengo.

Q. What occasion do you have to have shipments made by motor carrier of freight to your place of business?

A. Weil, twice each month we have shipments which we class as our parts orders from the Ford Motor Company, and then there is other shipments or in between those times that we receive on occasions. We also receive merchandise from some of your other wholesalers here in Des Moines, such as Herring Wissler Company and Hawkeye Truck and some of those places.

Q. But those are in the nature of automobile accessories or supplies?

A. That is right.

Q. Where do you get your shipments of Ford parts and service supplies, is that from outside of Iowa?

A. No, that is here at East Walnut.

Q. Here in Des Moines?

A. At East Walnut.

[fol. 757] Q. Do you have occasion to get shipments from points where the shipments originate outside of Iowa?

A. Yes. We have some stuff on some items and they list them as this, drawing from other locations, and they come from the Central Parts Depot in Dearborn, Michigan.

Q. How do you customarily get those shipments?

A. Well, you mean those outside shipments?

Q. Yes. How do you get them into your place of business?

A. They are usually brought up by our local carrier. Your freight company brings most of that stuff in, and then there is a local carrier that delivers there for the Rock Island Motor Transit, although there has been some of those parts that have been brought in by other carriers.

Q. Do you know about what the service of the Rock Island Motor Transit Company to Marengo has been as on a daily basis or otherwise?

A. It has been very good, the service has been for us.

Q. Do you know of any other truck line that renders the same frequency of service that is coming as regularly?

A. Not as frequent. We see other trucks in there.

Q. What concerns are those?

A. The names of them?

Q. Yes.

A. Well, there is Des Moines Transportation. That would be the one that would register with me first.

[fol. 758] Q. Do you know how frequently that company makes Marengo as a delivery point?

A. No, I don't. We don't see them as often. They might be in there times when we don't see them, but we don't receive much merchandise through them.

Q. Would you say that a substantial curtailment or the elimination of this interstate service of the Rock Island Motor Transit Company would have any effect on your business there at Marengo?

Mr. Fowler: Just a moment. That is objected to as immaterial for the reason it is assuming a fact that is not substantiated in this record.

Exam. Carpenter: The objection is overruled.

A. I would say it would.

By Mr. Howland:

Q. And in what respect and to what extent?

A. Well, here is what this motor carrier does. They have their depot there and they travel during the night and a lot of time they leave the merchandise for us, and then their local carrier delivers it to us the next morning. Without that, why, we might have folks waiting for that material that is needed for a considerable time.

Q. And some of your shipments are of a relative emergency character, particularly your repair parts?

A. That is right.

Mr. Howland: I think you may cross-examine.

Exam. Carpenter: Cross-examine.

[fol. 759] Mr. Fowler: No cross.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Howland: Mr. Jacobs of Marengo.

EVERETT L. JACOBS was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, please?
A. Everett L. Jacobs.
Q. You live in Marengo, Mr. Jacobs?
A. Yes.
Q. And you are in business there?
A. Western Auto Associate Store.
Q. Is that an individually owned store?
A. That is right.
Q. In which you handle the line of merchandise distributed by the Western Auto Supply Company of Kansas City, Missouri?
A. Yes, sir. Our distributing point is Dubuque.
Q. That is, your source of supply for that line is Dubuque?
A. Right.
Q. Do you also handle other lines of merchandise?
A. We handle quite a few items of hardware merchandise.
Q. And your source of supply for those hardware lines is where?
A. Minneapolis.
Q. What is included in the hardware lines that you [fol. 760] retail there? Does that include paints and varnishes?
A. No, sir, that comes from Western Auto. Our hardware line includes such as galvanized ware and so forth.
Q. Those shipments you get from Minneapolis, Minnesota?
A. Yes, sir.
Q. What other shipments do you get from interstate points outside of Iowa?
A. I have some shipped in occasionally from St. Louis.
Q. And this hearing is concerned particularly with interstate shipments, so I will ask you particularly with respect to the shipments from Minneapolis and from

St. Louis; what service do you have on those shipments, by what means do you customarily get them?

A. Rock Island truck.

Q. The Rock Island Motor Transit Company?

A. Right.

Q. You have heard the testimony of Mr. Rathjan and also Mr. Hibbs with respect to the Marengo community, have you not?

A. Yes, sir.

Q. Is there anything you can add with respect to the type and character of the community and the needs of the community from a transportation standpoint?

A. In other words, you want to know if we could be serviced any other way?

Q. Let me ask you this question. Would you concur in [fol. 761] the evidence that has been given by Mr. Hibbs and by Mr. Rathjan so far as the description of this community of Marengo is concerned?

A. I think they done a very nice job.

Q. All right. With respect to these shipments that you receive from the Twin Cities or Minneapolis or from St. Louis, do you know of any other service available to Marengo that would handle those shipments on the same basis as to frequency of service that is provided by the Rock Island Motor Transit Company?

A. I do not.

Q. What would be the effect on your business there and upon your community by the elimination or substantial curtailment of this interstate service which is now being provided?

Mr. Fowler: Just a moment. That is objected to for the same reason that has been stated with respect to questions of the same import.

Exam. Carpenter: The objection is overruled.

Mr. Howland: You may answer the question.

A. Well, it would cause us a lot of wait on quite a few of the different items of merchandise, where otherwise we can have it in a very short time on the Rock Island Motor Transit.

By Mr. Howland:

Q. Is there anything that you wish to add as far as the effect of the need of your business for this service, Mr. Jacobs?

Mr. Fowler: Just a moment. That is objected to for the [fol. 762] reason it doesn't make a proper record. It calls for a voluntary statement of the witness.

Mr. Howland: I will withdraw the question in that form. Let me ask it this way:

By Mr. Howland:

Q. Other than what you have told us, is there any phase of your business that would be adversely effected by an alteration or reduction of the Rock Island Motor Transit Company's service?

Mr. Fowler: That is objected to as repetitious.

Exam. Carpenter: Objection sustained.

Mr. Howland: You may cross-examine.

Exam. Carpenter: Cross-examine.

Mr. Fowler: No cross.

Exam. Carpenter: You are excused.

(Witness excused.)

Exam. Carpenter: We will take a little recess now.

(Short recess.)

Mr. Howland: Mr. Cole.

L. L. Cole was recalled and testified further as follows:

Cross-examination.

By Mr. Fowler:

Q. Mr. Cole, I believe when you stepped aside, you had just discussed with Mr. Howland this document, which is identified here as Exhibit No. 15?

A. That is right.

[fol. 763] Q. With respect to page one of the exhibit you have included, of course, all operations of the Rock Island Motor Transit Company whether interstate or intrastate throughout its system?

A. For those stations that are listed.

Q. That is right.

A. Yes.

Q. Do you have intrastate operations elsewhere than in the State of Iowa?

A. Yes, sir, we do have.

Q. Have you included in the revenue items the charges which you have made against railroad company for your pickup service and your road haul service on railroad freight?

A. No, we have not.

Q. I believe the testimony shows that with respect to the peddle operation out of Iowa City that about 20 percent of the freight was railroad freight. You have not included in these figures on page one of exhibit 15 any revenue of that character?

A. No, we have not.

Q. Throughout your exhibit 15 you haven't made any allowance for the natural decline in traffic which I think the industry generally experiences in the months of January, February and March, have you?

A. These figures are taken from our own records.

Q. Is it not a fact that traffic is down the forepart of a year, and particularly that is true this year?

[fol. 764] A. I have no definite information. I have heard rumors to that effect.

Q. As I understand it, you have selected for the purpose of your exhibit on page one in the months of September and October, 1950, compared with the months of September and October, 1951?

A. That is one of the periods.

Q. I mean on your first group?

A. That is correct.

Q. And your second group is for the months of November and December of each year?

A. That is true.

Q. And your third group is for the months of January and February of each year?

A. That is correct.

Q. The figures that appear on page two of your exhibit apparently reflect the operations from Chicago to the points designated on your exhibit in interstate commerce only?

A. No, that includes intrastate as well.

Mr. Howland: That includes all business moving out of Chicago to these destinations.

The Witness: That is correct.

By Mr. Fowler:

Q. How would intrastate be involved on page two of your exhibit?

A. Well, in this event there wouldn't be any, because there is no intrastate points listed.

[fol. 765] Q. Again you have not allowed for any revenue which Rock Island Motor Transit receives for the transportation of rail freight?

A. We have not allowed for that.

Q. Page three of your exhibit would be confined to the interstate operation?

A. That would be correct.

Q. And again you have not made any allowance for revenue you received from the railroad?

A. We have not.

Q. Page four, of course, is entirely intrastate?

Mr. Howland: Oh, no.

A. No, there is some interstate in there too.

By Mr. Fowler:

Q. Does it include both interstate and intrastate?

A. It includes both.

Q. And again no allowance for the outside revenue you received from the railroad?

A. There is no allowance for that.

Q. Does page five include likewise interstate and intrastate?

A. That is correct.

Q. And the same situation would be true?
A. That is true.
Q. Page six is the same?
A. They are all prepared in the same manner.
Q. And includes your intrastate operations wherever [fol. 766] it is applicable?
A. That is true.
Q. And your interstate?
A. Yes.
Q. Without any allowance for any railroad revenue?
A. That is true.
Q. You told me, I believe, the other day that the figures which you used for the preparation of this exhibit 15 were taken from records which you have in your office which are kept in the ordinary and usual course of business?
A. That is correct.
Q. I am willing to accept that understanding, but merely for the record is it satisfactory that if someone else interested in this case wants to check those figures, they would be available to him?
A. I would be very happy to go over them.

Mr. Fowler: Exhibit 15 is objected to as immaterial, particularly for the reason it includes revenue from intrastate operations, and also it does not correctly record the revenue which Rock Island Motor Transit Company receives at these various stations inasmuch as the earnings for the transportation of railroad freight are not included and the compensation which is received by the trucking division for rail freight handled for the railroad. I am not objecting for the reason that the underlying data on which the exhibit was based has not been produced.
[fol. 767] Exam. Carpenter: The objection is overruled and the document is received in evidence as exhibit No. 15.

(Applicant's exhibit No. 15, Witness Cole, was received in evidence.)

By Mr. Fowler:

Q. Could you tell me, Mr. Cole, roughly speaking, what percentage of your revenue is derived from intrastate operations?

A. No, I couldn't.

Q. Is it substantial?

A. It is.

Q. But in relation to the total you have no figures in mind?

A. No, I don't have.

Mr. Fowler: That is all.

Exam. Carpenter: Proceed, Mr. Howland.

Mr. Howland: Will you mark this for identification as exhibit No. 16?

(Applicant's exhibit No. 16, Witness Cole, was marked for identification.)

Further direct examination.

By Mr. Howland:

Q. Mr. Cole, did you at my request have a check made in which you participated in the inter-line shipments received from connecting carriers at various points involved in the so-called White Line and Frederickson routes of the Rock Island Motor Transit Company, which check was [fol. 768] designed to show the number of such inter-line or connecting line shipments received during the period November 1 to December 31, 1950, and a similar period for 1951?

A. I did.

Q. I will ask you to examine the sheet marked for identification as exhibit No. 16 and tell us what that is and whether you prepared it.

A. This is a summary of interstate shipments received from connecting line carriers at Chicago, Illinois, Davenport, Cedar Rapids and Des Moines, Iowa, and Omaha, Nebraska, having destinations at points covered by the application during the periods of November and December, 1950 and 1951.

Q. Did you include in the 1950 period shipments having a weight in excess of 5,000 pounds?

A. They were eliminated.

Q. They were eliminated?

A. Yes.

Q. Do you know whether there were particularly at Chicago and Des Moines a number of such shipments in November and December, 1950?

Mr. Fowler: That is objected to for the reason it is not the best evidence.

Exam. Carpenter: Will you read the question, please?

(Question read.)

Exam. Carpenter: Off the record.

[fol. 769] (Discussion off the record.)

Mr. Fowler: I will withdraw the objection.

Mr. Howland: Do you have the question in mind?

The Witness: I have the question in mind.

Mr. Howland: All right. Answer.

A. That was particularly true in Chicago, but I don't recall the exact volume at Des Moines.

By Mr. Howland:

Q. Do you recall the volume in Chicago?

Mr. Fowler: I am going to object to that.

Mr. Howland: All right.

Exam. Carpenter: Do you withdraw the question?

Mr. Howland: We will withdraw that question then.

By Mr. Howland:

Q. I call your attention particularly to the fact that at Des Moines, Iowa, and Omaha, Nebraska, particularly Des Moines, Iowa, the number of shipments in the 1950 period was 456 and in the November-December, 1951 period a total of only 182. That was true notwithstanding the fact that you did not include in your November and December, 1950 shipments any in excess of 5,000 pounds?

A. That is true.

Exam. Carpenter: Of course, there were no 5,000 pound shipments included in the November and December, 1951 period on the restriction.

By Mr. Howland:

Q. That is a fact, is it not, Mr. Cole?
A. Yes.

[fol. 770] OFFER IN EVIDENCE

Mr. Howland: I will offer and introduce in evidence at this time the document heretofore marked for identification as exhibit No. 16.

Mr. Fowler: I assume, Mr. Cole, that exhibit No. 16 was prepared from original shipping documents that are in your office?

The Witness: They were prepared from the billing station copies of freight bills.

Mr. Fowler: That are in your office here in Des Moines?

The Witness: I have them in my office at the present time.

Mr. Fowler: Are they available for inspection, if anyone wants to inspect them?

The Witness: They are.

Mr. Fowler: In the event myself or any of my associates wish to examine them, they can examine them at your office?

Mr. Howland: There are seven or eight thousand of them.

Mr. Fowler: Is that correct?

The Witness: That is correct.

Mr. Fowler: I am going to object to the exhibit only on the ground of its immateriality, waiving the objection for the reason that the underlying data has not been produced subject to a reservation that we may examine it at a later date.

Exam. Carpenter: The objection is overruled, and the document is received in evidence as exhibit No. 16.

[fol. 771] (Applicant's exhibit No. 16, Witness Cole, was received in evidence.)

Exam. Carpenter: Off the record.

(Discussion off the record.)

Mr. Howland: Mr. Fowler, you didn't cross-examine with respect to exhibit No. 12.

Mr. Fowler: I have.

Exam. Carpenter: What?

Mr. Howland: I have a few questions with respect to exhibit No. 12.

Exam. Carpenter: I thought he covered everything up to exhibit No. 15.

Mr. Fowler: I did.

By Mr. Howland:

Q. Mr. Cole, when you were on the witness stand the other day you identified and we discussed to some extent the figures shown on exhibit No. 12. What is the significance of the figures shown under the pickup and delivery, both less than truck load and truck load weight in pounds, so far as showing the quantity of business handled at the Des Moines terminal by the carriers who are listed on exhibit 12?

Mr. Fowler: Read that question.

(Question read.)

Mr. Fowler: That is objected to as immaterial and irrelevant, and it is also objected to because it is calling for hearsay evidence, speculation and conjecture.

[fol. 772] Exam. Carpenter: As I understand it, the figures are submitted by other carriers other than the Rock Island Motor Transit and were compiled and submitted to you, weren't they?

The Witness: That is correct.

Mr. Howland: They were furnished by the other carriers, some of whom are objectors and protestants here.

Exam. Carpenter: I will overrule the objection.

The Witness: What was the question?

Exam. Carpenter: Read it.

(Question read.)

A. The tonnage or rather the weight listed under pickup and delivery represents the volume of traffic either originating or terminating in the city of Des Moines. Does that answer your question?

By Mr. Howland:

Q. And the combination of the less than truck load and truck load figures would indicate the total volume handled by the particular carrier inbound and outbound at the Des Moines station of that carrier?

A. That is correct.

Q. And do these figures on exhibit 12 under the pickup and delivery for Rock Island Motor Transit include pickup and delivery service performed by the Rock Island Motor Transit Company under contract with the Rock Island Railroad?

A. They do include those figures.

Mr. Fowler: Are you finished, Mr. Howland?

[fol. 773] Mr. Howland: Yes.

Exam. Carpenter: Cross-examine.

Further Cross-examination.

By Mr. Fowler:

Q. While we are on exhibit 12, it is my understanding that some of these carriers on truck loads deliver direct and there would be no expense incurred for delivery would there?

A. I am in no position to say.

Q. If it is true then that some of the carriers don't include such transactions in their pickup and delivery computations, then this exhibit would be in error to that extent?

A. There is that possibility.

Q. What I have reference to is a truck load moving, say, from the Firestone and Rubber Company located 12 miles out of Des Moines, destined to an eastern point which never would come near any of the Des Moines terminals. You don't know whether any charge has been included for that or not?

A. The figures for the other carriers were furnished to me for assembling on this report.

Q. But you don't know how they handled those transactions? You are not familiar with how that was handled?

A. No.

Q. Have you in your own figures included a truck load

that didn't come within 10 miles of the terminal, a similar load as I have described?

[fol. 774] A. Well, in our company so far as I know a local man would take that truck out and bring it back, and then the road driver would take it from Des Moines to its destination.

Q. Are you sure now that with respect to truck load movements that the expense of delivery or pickup has been included in your figures here?

Mr. Howland: This is merely pounds under those items.

Mr. Fowler: That is right, truck load pounds.

A. I am certain that our own figures include that.

By Mr. Fowler:

Q. What would be the expense of pickup on such a movement as I have described, what would it consist of?

A. So far as this report is concerned?

Q. Yes.

A. All that would be involved would be the time and wages for the driver that made the pickup.

Q. You mean that you would go out and get that truck after it was loaded and haul it back to the Des Moines terminal?

A. For billing purposes.

Q. Billing purposes and start it out again?

A. That is my understanding.

Q. But you don't know whether the others treated it the same way?

A. That is right.

Mr. Fowler: That is all.

Exam. Carpenter: Redirect?

[fol. 775] Redirect examination.

By Mr. Howland:

Q. Right in that connection, Mr. Cole, what is the fact as to whether at the time that is covered by this study embodied in exhibit 12 that it was customary to handle truck loads moving in and out of Des Moines as far as the Rock

Island Motor Transit was concerned, that if the truck load were an inbound shipment, that the road driver would bring it to the terminal and then the truck would be taken over by a city driver who would drive it to the place of destination and there unload or help in unloading it?

A. That is an exact description of the operation.

Q. And on an outbound truck load shipment, what is the fact as to whether it was customary so far as the Rock Island Motor Transit was concerned to send the truck to the place at which the load was to be put into the semi-trailer by local pickup and delivery driver who would load or help in loading the semi-trailer, and who would then drive it back to a terminal where a road driver would take over?

A. That is my understanding, yes.

Q. And the pickup and delivery of truck load shows the hours and wages of the various carriers, as you understand it, and at least in connection with the 34½ hours shown for the Rock Island Transit Company was time of employees for that type and character of service?

Mr. Fowler: If the question——

[fol. 776] Mr. Howland: The question is involved. I will withdraw the question.

By Mr. Howland:

Q. What is included in the figure of 34½ hours shown in the Rock Island Motor Transit column of exhibit No. 12?

A. That is the number of hours spent by our employees during the period in connection with the picking up or delivering of truck load freight.

Mr. Howland: That is all I have.

Mr. Nolan: I have a couple of questions I would like to ask about this exhibit.

Mr. Fowler: Mr. Examiner, I always thought we had a rule that one lawyer would do the examining. I only object to it because it leads us into repetition and kills time.

Mr. Nolan: I am appearing here not only for the applicant but for interveners, and I feel I have some rights to inquire of the witnesses.

Mr. Fowler: I question that too, but I still insist one of you fellows examine a witness and we will have a little better record here.

Exam. Carpenter: The objection is overruled. Go ahead.

By Mr. Nolan:

Q. Mr. Cole, across from the legend there platform handling, inbound weight of 574,885, and then an outbound figure of 2,172,654, making a total of 2,747,539 pounds, why is that figure in excess of the combined pickup and delivery?

Mr. Fowler: Will you read that question?

[fol. 777] (Question read.)

Mr. Fowler: Do you know of your own personal knowledge the answer to that question?

The Witness: Yes, I do.

Mr. Fowler: All right.

A. That is brought about by the fact that the platform employees handle a considerable volume of tonnage at the Des Moines dock that neither originates nor terminates in the city of Des Moines. It is transfer freight coming in from one point and transferred to another truck, moving out of the city.

By Mr. Nolan:

Q. And that may be either transferred coming in on one of your lines and transferred to another line going out, or interlined with some other company, would it be both kinds of freight?

A. Interlined would be considered as on our own figures as originated tonnage here, so it wouldn't. It would be the transfer of freight that I spoke of.

Q. From one of your trucks coming in from the east to one of your trucks going on the south line, is that what you are referring to?

A. That would be one of the examples.

Q. Then any freight that is interlined from another carrier with your company that would be in the classification of picked up freight in Des Moines originating here?

A. That would be handled in that manner, yes.

[fol. 778] Q. But that wouldn't come under your pickup and delivery, would it?

A. I am not certain about whether our driver makes the pickup or whether they bring it to us. If it was picked up by our pickup driver, it would be considered pickup weight.

Q. On this picking up and delivering of freight, do I understand that that includes all l. c. l. rail freight both handled by the Rock Island Motor Transit Company and handled by the railroad too?

A. That we pick up or deliver for them, yes.

Q. As I understand it, your company does all the picking up and delivering for the railroad, Rock Island Railroad here in Des Moines?

A. So far as I know, yes.

Q. Do you mean to tell us that the combined rail freight and the motor carrier freight handled by the Rock Island Railroad and the Rock Island Motor Transit Company in Des Moines was less than what was handled by the Des Moines Transportation Company for the period covered here?

Mr. Fowler: We object to that as calling for hearsay.

By Mr. Nolan:

Q. I mean according to this exhibit and according to the figures submitted to you.

A. It is very considerably.

Mr. Fowler: We object to that on the ground that it calls for hearsay and not the best evidence.

[fol. 779] Exam. Carpenter: Will you read the question?

(Question read.)

Mr. Fowler: If he will limit the question to the material which appears in the exhibit, no objection.

By Mr. Nolan:

Q. From the information furnished you by the Des Moines Transportation Company and from your own records of your company.

Mr. Fowler: I will object to that on the ground that the material furnished here by the Des Moines Transportation Company in accordance with the statement of this witness is not before us for examination, and I am not aware of the basis upon which it prepared its information in comparison with that prepared for the Rock Island Motor Transit.

Exam. Carpenter: I will sustain the objection.

By Mr. Nolan:

Q. What I am trying to get at, Mr. Cole, is, first, that according to this exhibit under the caption of pickup and delivery, that includes all freight picked up by the Rock Island Motor Transit Company whether for transportation by itself or for transportation by the railroad or under rail billing on the Rock Island Motor Transit line, is that correct, for the period covered by this exhibit?

A. Picked up and delivered?

Q. Here in Des Moines.

A. In the city of Des Moines.

Q. I will ask you if the significance of this exhibit is to [fol. 780] show the combined l. c. l. freight handled by the Rock Island Motor Transit Company and the Rock Island Railroad in Des Moines in comparison with the freight handled by these transportation companies listed here for the period of time involved?

Mr. Fowler: That is objected to as immaterial and for the same reasons that have been urged on the previous questions touching on this exhibit.

Exam. Carpenter: Read it.

(Question read.)

Mr. Fowler: Frankly, Mr. Examiner, I don't care if he answers it. What he is doing is reading the exhibit.

Exam. Carpenter: Off the record.

(Discussion off the record.)

Exam. Carpenter: Do you withdraw the objection?

Mr. Fowler: The objection is withdrawn.

Exam. Carpenter: Did you mean l. c. l.?

Mr. Nolan: Yes, l. c. l. and l. t. l. too.

Exam. Carpenter: When you said l. c. l.?

Mr. Nolan: I mean other carload freight.

Mr. Fowler: The objection to that question only goes to information that this witness might relate which is purely based upon hearsay and of which he has no personal knowledge.

Exam. Carpenter: I will overrule the objection. Do you have the question, Mr. Cole?

The Witness: I think so.

[fol. 781] Exam. Carpenter: All right. If you don't, he will read it again.

The Witness: You better read it.

(The question was read again.)

A. It is for a matter of comparison of the freight handled by the Rock Island Motor Transit Company both in motor carrier business and in that business handled for the C. R. I. & P. Railroad as compared to the volume handled by other motor carriers.

By Mr. Nolan:

Q. Then, in other words, if I understand this exhibit, that the sum total of less than truck load pounds and truck load pounds of picked up and delivered freight in Des Moines was all the freight handled by the Rock Island Railroad and the Rock Island Motor Transit Company other than carload freight during the period of time covered by this exhibit?

A. That is right.

Q. Either originating in Des Moines or coming into Des Moines for distribution?

A. That is correct.

Q. And for a little further explanation of this exhibit, then the Rock Island Railroad and the Rock Island Motor Transit Company either brought into Des Moines for distribution or picked up in Des Moines for distribution between January 29 and February 3, 1951, inclusive, 1,990,320 pounds of freight of less than carload quantity?

A. What is the question?

[fol. 782] (Question read.)

A. 1,991,420.

By Mr. Nolan:

Q. 1,991,420 pounds?

A. That is correct.

Q. And that the Des Moines Transportation Company for the same period either brought into Des Moines for delivery or picked up for freight originating in Des Moines the sum total of 1,922,870 pounds and 1,758,130 pounds?

Mr. Fowler: That is objected to for the reason it calls for hearsay evidence and immaterial. The witness can't have any knowledge of what the Des Moines Transportation Company did in Des Moines, except as he says this information was furnished him. It is purely hearsay.

Exam. Carpenter: That is true, but he can count up the total of the figures submitted by the other company, and that is all he questioned him about.

Mr. Fowler: This merely calls for a mathematical computation, and I object to it on the ground the exhibit speaks for itself.

Exam. Carpenter: That is true.

Mr. Nolan: This is for the purpose of explaining the exhibit in more detail.

Exam. Carpenter: The objection is overruled.

Mr. Nolan: Will you read the question?

(Question read.)

[fol. 783] A. Yes.

Mr. Fowler: Are you through?

Mr. Nolan: Yes. That is all.

Recross examination.

By Mr. Fowler:

Q. I did ask you, did I not, that this exhibit No. 12 reflects all your intrastate freight?

A. I don't recall you asking, but it does.

Q. And includes everything that is transferred across your platform from one intrastate route to the other?

A. In the platform handling, yes.

Q. Of course, you are aware, are you not, that the Bruce Transfer Company, which you have listed on your exhibit, does engage in any common carrier operation?

A. I believe I stated the other day that I wasn't certain about their status.

Q. And you are aware, are you not, that the Bruce Transfer and Storage Company does pick-up and delivery service for Bruce Motor Freight?

A. Yes, I have heard that.

Mr. Fowler: That is all.

Exam. Carpenter: Proceed, Mr. Howland.

Mr. Howland: I think that is all I have of Mr. Cole.

(Witness excused.)

Exam. Carpenter: We will adjourn until 1:30.

(At 12:00 noon, a recess was taken until 1:30 p. m., of the same day.)

[fol. 784] AFTERNOON SESSION 1:30 p. m.

Exam. Carpenter: We will proceed.

Mr. Nolan: Mr. Wellendorf.

EDWARD WELLENDORF was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you please state your name, place of residence and occupation?

A. Edward Wellendorf.

Q. You are from Audubon?

A. Audubon, Iowa.

Q. What is your occupation?

A. Coast to Coast Store.

Q. Where is Audubon, Iowa, located?

A. It is on Highway 71, between Atlantic and Carroll, about midway.

Q. About how far from Des Moines and which way from Des Moines?

A. About 80 miles, and it is off of Highway 64 about four miles to the north.

Q. What kind of merchandise do you handle in your store?

A. Mostly hardware and auto supplies, supporting goods and appliances.

Q. How long have you been so engaged at Audubon?

A. Thirteen years.

Q. Is that a chain store or is that a locally-owned store [fol. 785] under a franchise or buying merchandise through the Coast to Coast Store itself?

A. It is locally owned, franchised with the Coast to Coast Store as a buying organization.

Q. Then you are the owner of the store thereof?

A. That is right.

Q. From what source do you get your merchandise, Mr. Wellendorf?

A. I would say 80 percent out of Minneapolis through Coast to Coast Stores.

Q. And is that the warehouse of the Coast to Coast Stores?

A. That is the warehouse of the Coast to Coast Stores. There are a few direct sources, but that would be approximately 80 percent of it.

Q. Do you have other out of state sources?

A. We get some from Chicago and a little from Omaha.

Q. How has your merchandise been coming in to the store at Audubon?

A. All of our Minneapolis freight comes by Rock Island Motor Transit.

Q. What size shipments do you ordinarily get?

A. They vary greatly, but they will range from a minimum shipment up to perhaps 2,000 pounds or more.

Q. What has been the character of the service of Rock Island Motor Transit Company during the years?

A. Very good.

[fol. 786] Q. And you do have another motor carrier operating out of Audubon, do you not?

A. Yes, sir.

Q. And that is the Roberts Freight Lines?

A. Roberts Transfer.

Q. That is a line between Des Moines and Audubon, Harlan and Omaha, is that correct?

A. That is correct.

Q. Have you heard any suggestion that the Roberts Freight Line was going to terminate its operations between Audubon and Des Moines?

Mr. Fowler: That is objected to as hearsay.

Exam. Carpenter: Objection sustained.

By Mr. Nolan:

Q. Do you know that it is a fact such a move is contemplated by the operators of the Roberts Freight Lines?

Mr. Fowler: That is objected to for the same reason.

Exam. Carpenter: Objection sustained.

By Mr. Nolan:

Q. What would be the effect on your business if the Rock Island Motor Transit Company was required to either terminate or materially curtail its present operations into Audubon?

A. I would say it would greatly slow up our service out of Minneapolis.

Q. What is the regularity that you get shipments out of Minneapolis?

[fol. 787] A. Well, a shipment leaving Minneapolis will come through in two days, by leaving Minneapolis one day and arriving in Audubon the next is the usual service we get. There may be a few exceptions.

Q. That is if a shipment leaves Minneapolis today, you will get it——

A. Tomorrow.

Q. (Continuing) --the next day?

A. My understanding is it comes to Des Moines and

comes right on through Atlantic and up the next day, the following day.

Q. You couldn't want any faster service than that?

A. It is very fine service.

Q. Have you had any experience on interline with the Roberts Freight Line, whether or not it takes more time where there is an interline involved?

A. I have had some experience, yes.

Q. And is that satisfactory service?

A. We found that oftentimes there was a delay because of the transfer possibly in Des Moines and occasionally the Roberts truck would be filled and couldn't take it, and perhaps it would lay over another day.

Q. That wouldn't be satisfactory service like your single line service, would it?

A. We prefer the one-line haul.

Q. How about your shipments from Chicago, how do they [fol. 788] generally move?

A. Very good.

Q. What company handles them?

A. You mean the source of supply?

Q. What company?

A. Rock Island Motor.

Q. Handles your Chicago shipments too?

A. That is right.

Mr. Nolan: That is all.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Fowler:

Q. Mr. Wellendorf, do you understand what is involved in this application?

A. I believe I do.

Q. At the present time you are receiving your shipments from Minneapolis to Audubon by truck via the Rock Island Motor Transit Company?

A. That is right.

Q. Did you know that the Rock Island Motor Transit Company now has that authority?

A. Did I know it now has the authority?
Q. Yes.

Mr. Nolan: Just a moment. That is objected to as not proper cross-examination.

A. I am not sure that I know what you mean.
[fol. 789] Mr. Nolan: That is objected to as not proper cross-examination. It is assuming a state of facts contrary to the record. The Rock Island does not have the authority which they are seeking in this case, only on a temporary basis, and not even that authority on a temporary basis.

Mr. Fowler: I don't know what purpose that type of an objection has, unless it is to inform the witness. I move that the remarks of counsel be stricken, and that he be instructed to make his objection without a speech.

Mr. Nolan: Just a moment. That objection was perfectly valid. It is not proper cross-examination, and it is assuming a state of facts not shown in the record and, as a matter of fact, contrary to the record. That would be a valid objection in any court.

Mr. Fowler: Then make the objection and quit.

Exam. Carpenter: Off the record.

(Discussion off the record.)

Exam. Carpenter: Frankly, I don't see anything wrong with the question. They have the authority, it is on a temporary basis.

Mr. Nolan: I think the question is misleading, not probably intentionally so.

Exam. Carpenter: You can get it on redirect if you think that. I will overrule the objection. Go ahead and answer the question.
[fol. 790] Mr. Fowler: Will you read the question?

(Question read.)

A. As I understand it, on a temporary basis.

By Mr. Fowler:

Q. Did you know that the Rock Island Motor Transit Company now holds permanent authority which authorizes

it to transport your merchandise from Minneapolis to Audubon by truck?

A. I thought that was the purpose of the hearing to get permanent authority.

Q. Then you don't know that they did have that authority now?

A. I knew they were granted some authority, but I didn't know the full extent of the authority.

Mr. Fowler: That is all.

Exam. Carpenter: Redirect?

Redirect examination.

By Mr. Nolan:

Q. Mr. Wellendorf, if it be a fact, which it is a fact, that the Rock Island Motor Transit Company does have authority to handle freight—I mean the Rock Island Motor Transit has authority to handle shipments on rail billing requiring a handling by the rail facilities at Minneapolis, and then transferred to the motor carrier division or transit company to deliver to destination, and if it should be shown, as it will be shown in the record later on in this proceeding, that there would be two or three days or more time involved by having it coming on a rail billing, would that service be [fol. 791] satisfactory to you?

Mr. Fowler: Just a moment. I object to that on the ground that it is immaterial and assuming facts certainly not established in this record, and it calls for an answer which is purely speculative and conjecture.

Exam. Carpenter: Overruled. Go ahead and answer. Do you remember the question?

The Witness: You better read it.

(Question read.)

A. Not as satisfactory as the motor transit.

Exam. Carpenter: Off the record.

(Discussion off the record.)

Mr. Nolan: I think we will make a statement and we will connect it up.

Exam. Carpenter: Go ahead.

By Mr. Nolan:

Q. Mr. Wellendorf, state what the fact is as to whether or not you are here in support or attempting to acquire the same type of service for Audubon through the Rock Island Motor Transit Company that you have had over the years since you have been in business there?

A. That is right.

Q. Have you ever had any experience of shipments coming in on rail billing handled by the Rock Island Motor Transit Company?

A. I believe so, but I am not prepared to make that definite, but I think that is possibly true, yes.

[fol. 792] Q. Was that frequent or infrequent?

A. Infrequent. It has been practically all motor transit freight.

Mr. Nolan: That is all.

Mr. Fowler: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Howland: Mr. Frederickson.

JOHN H. FREDERICKSON was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name so we can all get it, please?

A. Full name?

Q. Yes.

A. John H. Frederickson.

Q. I believe you live at Harlan, Iowa?

A. Harlan, Iowa.

Q. How long have you lived at Harlan?

A. How long?

Q. Yes.

A. Since 1901.

Q. In what business have you engaged, and up to and including the present time what has been your occupation?

A. Various businesses, but in the past 20 years it has been principally a wholesale distribution of various products.

[fol. 793] Q. Were you one of the partners in the transportation company known as the J. H. Frederickson and Sons of Harlan, Iowa?

A. Yes, sir.

Q. And were you one of the parties that sold to the Rock Island Motor Transit Company?

A. That is right.

Q. In I believe about 1944?

A. 1945, I believe.

Q. 1945, I think maybe.

A. I think maybe it was 1945.

Q. The transaction was completed?

A. Yes.

Q. Where is Harlan located, Mr. Frederickson?

A. In Shelby County.

Q. About how far from Atlantic and from Omaha and Council Bluffs, Mr. Frederickson?

A. About 52 miles east and a little north of Omaha, and approximately 33 miles northwest of Atlantic.

Q. Harlan is a town of about what population?

A. About 4,000.

Q. And what types of business does it have there?

A. Oh, various types, mercantile businesses of various kinds.

Q. Tell us what the principal businesses are that are located in Harlan who have occasion to make shipments either in or out, as you know them.

[fol. 794] A. Well, you wish to have the names.

Q. Just the type of business, such as canning factory or whatever it is.

A. Mostly mercantile. There is one small factory there.

Q. Yes.

A. Otherwise it is produce companies and general mercantile businesses, groceries and so forth.

Q. What is the nature of the factory? What do they make?

A. Oh, it is some contrivance to place on tractors to protect them when they are on the highway. I believe it is a reflector; an electric reflector of some type.

Q. Since about 1945, when the transportation business in which you were interested was sold, I understand that your business has been principally that of wholesaling or distributing merchandise?

A. That is right.

Q. And what particular line of merchandise have you been handling? By that I mean is it groceries or foodstuffs?

A. No groceries.

Q. Feed?

A. No feeds.

Q. Tell us about it.

A. It would be candies, cigarettes, tobacco, cigars, fountain supplies and paper goods of various types. To enumerate it, it would be a string that long (indicating).

[fol. 795] Q. All right. What service is available to handle transportation into Harlan from points outside the State of Iowa, on the west, on the north or east?

A. Well, I don't know. The service from Omaha, there are four outfits that move in and out of Harlan.

Q. What are the concerns operating between Omaha and Harlan? There is the Rock Island Motor Transit and what other common carrier truck lines?

A. Iowa-Nebraska, Harlan Express and then the Roberts Transfer.

Q. Does the Harlan Express have common carrier tariff rates that enable it to perform interline business with other carriers?

A. I understand they do. We don't do any business with them.

Q. You have never done business with them?

A. No, very little.

Q. Does the Harlan Express have any eastern connection of any kind, that is, do they connect with any other carriers?

A. Not to my knowledge.

Q. Roberts Transfer, of course, is the concern with headquarters at Audubon, Iowa?

A. Yes, sir.

Q. Do you know what the service has been on the Iowa-Nebraska Transportation Company into Harlan from Omaha, how frequent that service has been?

A. I believe that is daily.

[fol. 796] Q. How about service from the east by Iowa-Nebraska?

A. Well, I couldn't say as to exactly what length of time because—you mean interstate?

Q. Interstate from eastern points, do they have a regular daily established service in there from eastern points that will handle interstate business?

A. On interstate business, I believe they do.

Q. Do you know what the frequency of that service is?

A. The same as to Omaha. It is the same truck.

Q. In other words, the transfer is made at some point before they get into Harlan, I take it?

A. Yes.

Q. What has been the character of service rendered by the Rock Island Motor Transit Company to and from Harlan, as you have observed it?

A. It has been very good.

Q. Have you used the service of the Rock Island Motor Transit Company in your business in recent months?

A. Yes, sir.

Q. Are there businesses in Harlan which have occasion to require transportation of more than 5,000 pounds at one time?

Mr. Fowler: That is objected to as immaterial, incompetent and calling for hearsay evidence, unless the witness has personal knowledge of the facts.

Exam. Carpenter: Can you qualify the witness?

[fol. 797] By Mr. Howland:

Q. Mr. Frederickson, in the 50 years or so that you have lived in Harlan I take it that you are pretty familiar with the type and character of the business there?

A. Some.

Q. Yes, and you yourself operated the J. H. Frederickson and Sons Freight Line for how long?

A. About 20 years.

Exam. Carpenter: That was a period prior to 1945?
The Witness: Yes, surely.

By Mr. Howland:

Q. And since that time you have made your home in Harlan and are now engaged in this distribution business that you have told us about?

A. Yes, sir.

Q. Do you have a pretty fair knowledge of the community and the transportation situation in that community as it has existed for the 20 years that you were engaged in the motor carrier business, plus the six years or seven years since the transaction was completed?

A. Well, I think I do.

Mr. Howland: Now I will ask the reporter to read that last question, or first maybe we better have a ruling on the last question.

Mr. Fowler: May I ask one question?

Exam. Carpenter: Yes, go ahead.

Mr. Fowler: Do you have personal knowledge of the [fol. 798] shipments of these other shippers of your own personal knowledge?

The Witness: The only knowledge I could have of them would be what I recalled from the time we were hauling.

Mr. Fowler: That was years ago?

The Witness: Well, it terminated in 1945.

Mr. Fowler: You don't claim to have any personal knowledge now of it?

The Witness: I have seen some of the shipments unloaded in there. That is all.

Mr. Fowler: That is objected to as immaterial and calling for hearsay testimony and incompetent.

Exam. Carpenter: Objection sustained.

By Mr. Howland:

Q. After you sold out the J. H. Frederickson and Sons Truck Line to the Rock Island Motor Transit Company,

did you continue for some period of time in a local drayage or cartage business?

A. Yes, we do yet.

Q. You still have that?

A. Yes. We have a state operator's permit just for the local service.

Q. That is Iowa State Commerce Commission permit?

A. Yes.

Mr. Howland: I would like the record to show and I am not too certain of the exact answer which this witness might be inclined to make in response to the question as to whether [fol. 799] there are shippers and receivers of freight in Harlan who require service for shipments in excess of 5,000 pounds. I would like to suggest to the Examiner that the evidence be taken subject to objection, and that the Examiner may then exclude it on motion if he is of the opinion that it is objectionable. I merely wish to make the record.

Mr. Fowler: Mr. Howland, to shorten the matter so we can save time, the only objection I have now to this line of testimony is that it is unnecessary and incompetent under the record.

Mr. Howland: I guess we can proceed then.

Mr. Fowler: You can if the Examiner permits it.

Exam. Carpenter: Proceed.

Mr. Howland: If the Examiner is willing,——.

Mr. Fowler: It is objected to for the reason that it is unnecessarily encumbering the record in view of the statement of the witness that he doesn't know.

Exam. Carpenter: The objection is overruled, but make it as short as you can.

By Mr. Howland:

Q. Let me ask you this question, Mr. Frederickson, based on your knowledge of the local situation, the business which you have yourself done and the fact that you are in business there today, are there concerns to your knowledge in Harlan who have occasion to require transportation of shipments weighing more than 5,000 pounds?

A. I would think so.

[fol. 800] Q. Where do your shipments of merchandise that you distribute come from, Mr. Frederickson?

A. Some from Omaha, a large portion of them from Des Moines, Chicago, St. Louis and eastern points.

Q. What service do you utilize in connection with those inbound shipments?

A. From Des Moines we have been using the Rock Island Motor Transit principally, in fact altogether.

Q. How about St. Louis and Chicago?

A. Where they are interlined?

Q. Yes.

A. If we have the routing of it, why, Bruce and Rock Island from St. Louis.

Q. How about Chicago shipments?

A. The Chicago shipments wherever we can we have been routing it by Rock Island Motor Transit.

Q. What would you say as to whether your business would be effected by the elimination or substantial curtailment of the Rock Island Motor Transit Company's service into and out of Harlan, Iowa?

Mr. Fowler: That is objected to as immaterial and assuming a state of facts that are not established in this record.

Exam. Carpenter: Objection overruled.

A. I would say it would be decidedly so.

By Mr. Howland:

Q. Would it be better for you or would you be hampered [fol. 801] in same way, and if so, just tell us how.

Mr. Fowler: That is objected to as immaterial. It is merely a repetition of the last question, and it is leading.

Exam. Carpenter: To that type of objection sustained.

Mr. Howland: That is all.

Mr. Fowler: That is all.

Mr. Nolan: Just a minute, Mr. Frederickson.

By Mr. Nolan:

Q. Why do you use the Rock Island Motor Transit in preference to other carriers that may be serving Harlan?

A. Why do we?

Q. Yes.

A. Well, the fact that our trucks are loaded on Saturday and we stagger our shipments of cigarettes which come from Des Moines principally. I think they are stored at the White Line transfer, and by staggering we can have them loaded here today and tomorrow by 10:00 o'clock they will be delivered to our place.

Q. Does the Rock Island Motor Transit give you better service than other carriers?

A. Yes.

Q. The point I am trying to get at, was there any agreement between you and the Rock Island Motor Transit Company when you sold out that you would give them all of your business, or are you free to have anybody you want to haul your merchandise into Harlan?

[fol. 802] Mr. Fowler: Just a moment. That is objected to as immaterial.

Exam. Carpenter: Objection sustained.

Mr. Nolan: That is all.

Mr. Fowler: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Nolan: Mr. Johnson.

Carl W. Johnson was sworn and testified as follows:

Direct-examination.

By Mr. Nolan:

Q. Will you state your name, place of residence and occupation?

A. Carl W. Johnson.

Q. Where do you live?

A. At Anita, Iowa.

Q. And what is your occupation?

A. Well, I manage the power and water works for the town of Anita.

Q. Is that a municipally owned power plant there?

A. Yes.

Q. And also a water plant?

A. Yes.

Q. Where is Anita located?

A. Well, it is about midway between Omaha and Des Moines, about 70 miles both ways.

[fol. 803] Q. And on U. S. Highway No. 6?

A. No. 6, yes.

Q. How long have you been manager of the municipal water and light plant in Anita, Iowa?

A. Four years yesterday.

Q. Did you live there prior to that?

A. No.

Q. What is the size of the town of Anita?

A. Approximately 1200.

Q. Do you have your own generating plant for the generation of your electricity which you distribute to the people there in Anita?

A. Yes, we do.

Q. Do you understand the proposition before the Commission here today? Has it been explained to you?

A. I don't know as I do understand it exactly or could explain it exactly no. As I understand it, the Rock Island people are trying to get a permit to continue to do business.

Q. As they have been doing over the past 13 years?

A. Well, I assume, yes.

Q. Mr. Johnson, what shipments, if any, do you have come into Anita there in connection with your business?

A. Oh, that is quite varied.

Q. Just tell us briefly what they are and where they come from.

A. Well, from Omaha we have barreled lubricating stocks, [fol. 804] greases, and from Joplin, Missouri, we have various power plant supplies, such as piping and fittings, wiping rags, tools, and from Des Moines it is about the same category for the engine room supplies, piping and fittings and meters.

Q. Do you handle any appliances?

A. None whatever, no.

Q. But you do handle meters for both electricity and for water?

A. Yes, that is right.

Q. And with what frequency would you say you get shipments into Anita there primarily from out of state points in less than carload quantities?

A. You mean the total of them?

Q. No, how often do you have things shipped into your plant there from out of state points?

A. Weekly, every week.

Q. What facility or what company has been hauling those shipments into your plant which are not hauled in by the railroad?

A. Well, predominantly the Rock Island Motor Transit.

Q. Have you used the service of the Rock Island Motor Transit Company during the past four years that you have been in Anita as manager of these two plants?

A. Yes.

Q. What has been the nature of that service, has it been satisfactory or not?

A. Well, I would say nothing different but it has been excellent.

[fol. 805] Q. That is the service of the Rock Island Motor Transit Company?

A. Yes.

Q. Have you had experience with having merchandise or supplies or other things come in by any other trucking company?

A. Yes, we have.

Q. Is there any other trucking company that offers a regular daily service to Anita that you know of from the east and west?

A. We are swamped there with trucking services, but just what their duties are, I don't know. I am only personally acquainted with the Rock Island boys and one driver of the Iowa-Nebraska Truck lines.

Q. When you say you are literally swamped, what do you mean, a large number of trucks go through Anita every day?

A. There is a hell of a slew of them.

Q. They go right down Main Street?

A. Yes.

Q. East and west?

A. Yes.

Q. Do all those trucks stop and pick up and unload merchandise in Anita?

A. No, they do not. Maybe I should have clarified that.

Q. They just go through town?

A. There would be only two to the best of my knowledge. The two competing firms would be the Iowa-Nebraska and the Rock Island Motor Transit.

[fol. 806] Q. How long has the Iowa-Nebraska Company been in there giving service?

A. I couldn't tell you that. I don't know.

Q. Have you had any experience with having shipments brought in by Iowa-Nebraska?

A. Yes.

Q. Do you by reason of the nature of the service between the Rock Island Motor Transit Company and the Iowa-Nebraska Company have any preference?

A. Do I have a preference?

Q. Yes, between the Rock Island Motor Transit and the Iowa-Nebraska by reason of the character of service one gives over the other?

Mr. Fowler: That is objected to as immaterial.

Exam. Carpenter: Objection overruled.

A. Am I to answer that?

By Mr. Nolan:

Q. Yes.

A. I would definitely request the Rock Island Motor Transit in all fairness.

Q. Do you specify whenever possible that your shipments move into Anita by Rock Island Motor Transit?

A. Absolutely.

Q. Do you occasionally have any shipments in excess of 5,000 pounds brought into Anita and less than a carload, like dynamos or big motors or anything like that?

[fol. 807] A. Not since I have been there, I don't believe.

Mr. Nolan: That is all.

Exam. Carpenter: Cross-examine.

Mr. Fowler: No cross-examination.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Nolan: Mr. Brodersen.

JACOB D. BRODERSEN was sworn and testified as follows:

Direct-examination.

By Mr. Nolan:

Q. May we have your name, place of residence and occupation, please?

A. Jacob D. Brodersen, Harlan, Iowa.

Q. What is your occupation, Mr. Brodersen?

A. President of an automobile company.

Q. What?

A. Automobile dealer.

Q. What line of automobiles do you have?

A. Studebaker.

Q. Do you handle repair parts?

A. We have parts for repair service.

Q. Do you have occasion to have shipments shipped into your place of business from out of state points?

A. We get most of our parts out of Kansas City.

Q. How frequently do you have shipments come in from Kansas City?

[fol. 808] A. I would say about once a week.

Q. And what company has been handling those shipments?

A. The Rock Island Transit is handling them, most of them.

Q. Have you specified whenever possible that the Rock Island Motor Transit handle those shipments for your company?

A. We do most of the time, where they specify it at the other end, because we get quicker service.

Q. You mean you get quicker service by Rock Island Motor Transit Company?

A. From Kansas City, yes.

Q. Have you had experience with having shipments come

in by other carriers from Kansas City other than by the Rock Island Motor Transit Company?

A. I suppose we have.

Q. Has that service been as satisfactory as the service provided by the Rock Island Motor Transit where some other motor carrier brings it in?

A. Well, when we need it we have to have it as quickly as possible. I would say the Rock Island has given us the quickest service.

Q. How long have you been in business at Harlan, Mr. Brodersen?

A. I would say about 22 years in various businesses, not the automobile business altogether.

Q. How long have you been there in the automobile business at present?

[fol. 809] A. About six years.

Q. During that time have you used the service of the Rock Island Motor Transit Company?

A. Yes.

Q. Has that service been satisfactory or otherwise?

A. It has been satisfactory.

Q. I don't suppose you have any occasion to have any shipments in excess of 5,000 pounds come into your place of business, do you?

A. I don't think we do, no.

Mr. Nolan: You may cross-examine.

Mr. Fowler: No cross-examination.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Nolan: Mr. Croghan.

SHERWOOD M. CROGHAN was sworn and testified as follows:

Direct-examination.

By Mr. Nolan:

Q. Will you give us your name, please?

A. Sherwood M. Croghan.

Q. You live at Walnut, Iowa?

A. That is right.

Q. What is your business?

A. I am mayor of the town there and also a Rawleigh Products dealer.

[fol. 810] Q. How long have you lived around Walnut?

A. Well, I have lived around Walnut for 17 years and in the town of Walnut for nine.

Q. How long have you been mayor of the town?

A. How long have I been married?

Q. Mayor.

A. Two years. I thought you said married. Excuse me.

Q. Mayor of the town.

A. Two years.

Q. Tell us where Walnut is located and the size of the town.

A. Well, it is located about 16 miles west of Atlantic and about, I would say, 40 miles east of Council Bluffs, on the main line of the Rock Island. The size of the last census was 888.

Q. Does Walnut have the usual retail stores and service establishments that the ordinary town in an agricultural community of that size has?

A. It has.

Q. You don't have any manufacturing there, do you?

A. Nothing.

Q. You say Walnut is on the main line of the Rock Island. Is there any change going to be made in the Rock Island line that would affect Walnut, I mean the rail line.

A. Definitely.

Q. As I understand it, the main line is going to be changed so Walnut would then be on a branch line?

[fol. 811] A. That is right.

Q. You say you are a Rawleigh dealer?

A. Yes.

Q. Just tell us what you handle in your Rawleigh dealer work.

A. Well, we handle medicines, stock foods of different kinds, and I could tell you a lot of things that we handle, but then that is what it is generally, Rawleigh products.

Q. Insecticides?

A. That is right.

Q. De-licers for chickens and everything?

A. That is right.

Q. Wax for the housewives?

A. Yes.

Q. For floors?

A. Yes.

Q. Polish for her windows?

A. Yes, and lipstick for her nose.

Q. How long have you been a Rawleigh dealer?

A. Since last July.

Q. Where do you get your merchandise?

A. From Freeport, Illinois.

Q. What size shipments do you get from Freeport?

A. Oh, I would say anywhere from 250 to 600 pounds.

Q. And how frequently or how often do you get those shipments, Mr. Croghan?

[fol. 812] A. Oh, up until the roads got bad this winter, once every week and sometimes twice a week.

Q. Is Walnut located on a paved highway?

A. No, it is not. It is on a black top.

Q. How have those shipments been coming into Walnut?

A. Fine.

Q. I mean when?

A. From the time I send in my order, about seven to ten days, and I think that is wonderful.

Q. What company has been bringing those shipments in?

A. The Rock Island Transit Company.

Q. State whether or not you have any other regular route motor carriers serving Walnut.

A. We have the Iowa-Nebraska.

Q. And have you used their service?

A. I never have.

Q. Why do you use the Rock Island Motor Transit instead of the Iowa-Nebraska?

A. Well, I looked into the matter and as near as I can find out I have one transfer from Freeport, Illinois, to Walnut on the Rock Island Motor Transit, and on the other routes I would have more than that.

Q. Have you been satisfied with the service you have secured or obtained from the Rock Island Motor Transit?

A. I sure have.

[fol. 813] Q. State whether or not your business would be adversely effected if there was a termination or a material reduction in the operations of the Rock Island Motor Transit Company in Walnut, Iowa.

Mr. Fowler: Just a moment. That is objected to on the grounds that it is immaterial and for the reason it is assuming facts that have not been established in this record.

Exam. Carpenter: Objection overruled. Answer.

The Witness: What was the question?

Exam. Carpenter: Read it.

(Question read.)

A. I feel that it would. I will tell you why, because I have not a big place to store stuff and I have to order quite frequently.

By Mr. Nolan:

Q. What do you do, work out of your home?
A. I work out through the country.
Q. I mean where do you store your merchandise?
A. I store my stuff at home.
Q. You don't have a warehouse?
A. No.
Q. Or a separate business house for your business?
A. No.

Mr. Nolan: You may cross-examine.

Exam. Carpenter: Cross-examine.

Mr. Fowler: No cross.

Exam. Carpenter: You are excused.

[fol. 814] (Witness excused.)

Mr. Nolan: Mr. Trieschman.

W. S. Trieschman, was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you give us your name, place of residence and business?

A. W. S. Trieschman, Wellman, Iowa; I am connected with the Maple Crest Turkey Farms.

Q. Mr. Trieschman, will you tell us what the Maple Crest Turkey Farms consists of, what their business is and volume of it and so forth?

A. It consists of a hatchery, a feed plant and a processing plant.

Q. For what?

A. What?

Q. For what?

A. Turkeys.

Q. What is the annual volume of business of the Maple Crest Turkey Farms and their various sundry lines?

A. Well, we process better than six to eight million pounds of turkey a year. I don't have the amount of feed that we do handle. It would be an enormous amount of feed.

Q. Maple Crest Turkey Farms hatch the turkey pullets, sell them to the farmers and buy the turkeys back and process them?

[fol. 815] A. That is right.

Q. Also they provide the feed for the turkeys?

A. That is right.

Q. What ingredients go into the feed which have to be shipped in from the outside?

A. Do you mean what feed we would have trucked in or by rail or what?

Q. We will get to that a little later.

A. All of our milled feeds, brand and middlings, meat scraps, and soy beans, that is all shipped in.

Q. How about your fish shells and so forth?

A. That is right, oyster shells. Then we have antibiotics of which the volume or the amount isn't so great, and oils that we use.

Q. You do your own mixing of feed there, do you not?

A. That is right.

Q. You buy the ingredients and then do the mixing there at your plant?

A. That is right.

Q. What shipments do you have brought in by truck that go into your feed business?

A. There are some, mainly are the ingredients that we use in not too large quantity, anti-biotics, cod liver oil and buttermilk. All of our other feeds used in greater amounts come in by rail.

[fol. 816] Q. Come in by carload lots?

A. Come in by carload lots.

Q. In other words, middlings and brands all come in carload quantity?

A. That is right.

Q. In addition to the feed ingredients which you have shipped in, what other occasion do you have to use motor truck service inbound to Wellman?

A. Our biggest use of Rock Island is repairs. We have the plant also at Kalona, Iowa, and to maintain our plants we have an enormous amount of repairs coming in all the time which are by truck.

Q. When you speak of Rock Island you mean the Rock Island Motor Transit?

A. That is right.

Q. How many employees does your company have? I mean the year around and then at the peak season.

A. Year around we run about 95, and at peak season we run around 300.

Q. I don't believe you gave us your position with the company?

A. I am general manager.

Q. How long have you been connected with the Maple Crest Company, Mr. Trieschman?

A. Twenty-one years.

Q. Twenty-one years?

[fol. 817] A. Right.

Q. What outbound shipments, if any, do you have for which you require truck service?

A. Turkeys mainly in the early fall when we just start

dressing the young birds. We ship quite a few but in small lots by the Rock Island Motor Transit, going to such places as Des Moines, the Tri-Cities and Chicago.

Q. In volume, several hundred pound quantities?

A. Yes, it will run up, I would say, from four to seven barrels. As the season progresses most of the places, Des Moines, St. Louis or Chicago, usually take straight truck loads, which we either truck ourselves or go to another truck line.

Q. Has the Rock Island Motor Transit Company hauled some truck load quantities of turkeys for you in the past?

A. No.

Q. That is handled by another local carrier in that area?

A. Most of that is handled by Merchants.

Q. Handled by Merchants?

A. Merchants handles practically all of our truck load.

Q. Merchants Motor Freight doesn't go into Wellman direct?

A. No, sir.

Q. They have an agency through the Iowa City Transfer Company?

A. That is right.

Q. Mr. Warren?

A. That is right.

[fol. 818] Q. He picks up the truck load of turkeys and turns it over to Merchants at Iowa City?

A. That is right.

Q. How frequently would you say you have shipments coming into your place of business by Rock Island Motor Transit Company?

A. Well, they average at least three shipments a week.

Q. Do you have shipments to Kalona too?

A. That is right.

Q. Is there any other motor carrier giving regular service, daily service, to Wellman?

A. No, sir.

Q. What would be the effect upon your company's operations if the Rock Island Motor Transit Company were required to cease operating as a motor carrier or their operations were materially curtailed?

Mr. Fowler: That is objected to as immaterial for the

reasons which have been urged heretofore with respect to the same.

Exam. Carpenter: Objection overruled.

A. I feel it would be quite a handicap. I am sure we would be delayed in getting materials in.

By Mr. Nolan:

Q. You are on a branch line, are you not, of the Rock Island?

A. That is right.

Q. And have you had any experience in getting drop shipments or small shipments in by rail there?

[fol. 819] A. Yes, and at the time being they are just running every other day. They have helped us out; if we requested them to run every day at this time of the year, they have helped us out by doing so. In the fall when we get to going, killing, processing every day, they run every day.

Q. That is where you turn over a carload or two or three carloads of turkeys, they run the switch engine down there from Iowa City and get them?

A. That is right.

Q. Do you think they would do that for four or five hundred pounds of freight?

A. I doubt it very much.

Q. Mr. Trieschman, do you know of any facility that would take the place of the Rock Island Motor Transit Company if it should be required to cease operating?

Mr. Fowler: That is objected to as repetitious.

Exam. *Fowler*: Objection sustained.

Mr. Nolan: That is all.

Exam. Carpenter: Cross-examine.

Mr. Fowler: Just one question.

Cross examination.

By Mr. Fowler:

Q. Do you ship some of these young turkeys by express?

A. Very few.

Q. When you do ship them does the Rock Island Motor

[fol. 820] Transit Company accept express shipments from you?

A. No, we express them right out on the Rock Island.

Q. Is that all handled by rail then?

A. Either then handled there or we take an express shipment to Iowa City ourselves with our own truck, but we do so little of that on account of the cost.

Mr. Fowler: That is all.

Exam. Carpenter: Redirect?

Redirect examination.

By Mr. Nolan:

Q. Most all of your turkey pullets are sold locally?

A. That is right.

Q. Did you give us the population of Wellman?

A: It is 1200 to 1300.

Mr. Nolan: That is all. Thank you.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Nolan: Mr. Powell.

L. J. Powell, was affirmed and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you state your name, place of residence and occupation, please?

A. L. J. Powell, Wellman, Iowa; I have a furniture and undertaking business there.

[fol. 821] Q. You are familiar, are you not, with the subject which we are discussing here in a general way?

A. I think so, yes.

Q. You testified in a previous hearing on the application for temporary authority, I believe?

A. Yes, sir.

Q. Last fall?

A. I was here last fall, yes.

Q. Will you tell us what your needs are in the way of transportation service into Wellman, Iowa?

A. Well, of course, most of our furniture comes in by freight and the motor-freight transport. Of course, it all comes in by this motor freight, practically all of it comes in that way, even if it is routed by the Rock Island Railroad, interstate and intrastate.

Q. Where do you get most of your shipments from? I am speaking about out of state points.

A. Out of state points?

Q. Yes.

A. We get it out of Springfield, Ohio; Louisville, Kentucky, and out of Fond du Lac, Wisconsin, and we get some from the east, farther east.

Q. Do you have some shipments that come on rail billing?

A. Yes.

Q. And other shipments on motor truck billing?

[fol. 822] A. Yes, sir.

Q. What is the fact as to whether or not the shipments that come on rail billing are not shipments which originate either in the far east or the far south?

A. I didn't get that question.

Mr. Nolan: Will you read it?

(Question read.)

By Mr. Nolan:

Q. I will say far eastern part of the country or the southern states of the country?

A. Well, they practically all come in on motor transit, Rock Island Motor Transit.

Q. I don't believe you understood my question. I am asking you whether or not these shipments which come in on rail billing by the Rock Island Motor Transit Company, if those aren't shipments which originate in the eastern part of the United States or in the southern part of the United States?

A. Yes, that is right.

A. We manufacture a line of oil heating equipment and power mowers.

Q. And that enterprise is carried on under what name?

A. Laco Oil Burning Company, Incorporated.

Q. Now, you say that you manufacture both heating equipment and power lawn mowers?

A. Yes, sir.

Q. And in connection with your heating equipment, what things do you manufacture there? Just describe the manufacturing process or assembly process or whatever it is.

A. Well, we manufactur*ing* oil burning space heaters, complete oil burning furnaces and pressure burners. We do not have our own foundry. We farm out all of our castings, but beyond that practically everything is made in our plant.

Q. I take it that——

A. Or should I say fabricated.

[fol. 846] A. Fabricated or processed or assembled, at least, would be the terms I assume would be applied to your operations.

Now, I take it you have occasion to have your castings, your sheet metals, your controls, and all those matters of that sort brought into your plant there——

A. Yes, sir.

Q. —at Griswold. And what are the points of origin from which those shipments, for the most part, are made to your factory?

A. The sheet steel, most of it comes out of Chicago. Our controls for oil heating equipment come out of Milwaukee, Wis., and Detroit, Mich. The engines for the power mowers come out of New Holstein, Wis., Milwaukee, Wis., and Maquoketa, Iowa.

Q. And is there a more or less continuous flow of inbound traffic into your plant there?

A. Yes, sir.

Q. I take it that there is also the same flow outward of your manufactured and finished materials?

A. Yes, sir.

Q. About how frequently do you require motor carrier service to your plant?

A. Inbound?

Q. Rather than shipments originating in Chicago or in adjoining states?

A. Yes.

Q. Is that true or not?

A. We get some shipments out of Indiana and also Illinois.

Q. That comes on rail billing?

A. Yes.

Q. Do you have any preference whether it should come [fol. 823] on rail billing or truck billing in regard to the quality of service you get?

A. Well, the reason that I specify the rail billing is because I know it will come on this Rock Island Transit, and I prefer that. There are no other motor freights coming in there, that is, there is none that haul local freight that I know of, but on those transfers, I just don't like that too well. That is the reason I specify it.

Q. You specify rail?

A. I always specify Rock Island. That is the way I specify it.

Q. So you will be sure that the Rock Island gets it and brings it in to you?

A. That is the way I specify it, yes.

Q. Instead of somebody else that might be kicking it around before it got there?

A. That is the idea, I think.

Q. Is there any other motor trucker that you know of that gives a daily or any service to Wellman on a regular basis?

A. There isn't to my knowledge, no.

Q. Wellman is located on Iowa Highway 22, is it not?

A. That is right.

Q. About how far west of U. S. Highway 218 is it?

A. Oh, it is about 14 miles, I believe, 13 or 14.

Mr. Nolan: That is all.

Mr. Fowler: That is all.

[fol. 824] Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Howland: Mr. Hitchen.

Q. Inbound and outbound.

A. Daily.

Q. Daily. What transportation service have you had in the past available to serve your plant there at Griswold?

[fol. 847] A. We have the Chicago, Burlington and Quincy Railroad. It is a branch line which does not make for good service. We have the Thornton Transfer, which is a small transfer that starts at Griswold and ends at Omaha. We have the McVey Transfer, which originates at Greenfield and runs to Omaha, but for service, anything they pick up for us in Omaha, it is my understanding they must carry it to Greenfield and back to Griswold, which is an extreme delay, which is very bad at the present time, and then we have the Rock Island Motor Transit which carries practically all of our merchandise from Chicago to Griswold except at the present time when the load exceeds 5,000 pounds.

Q. I want to ask you particularly about that 5,000-pound restriction. In your operations, when you make shipments of sheet steel under normal conditions, in about what quantities do you buy those supplies?

A. During normal times, it would run anywhere from 20 to a hundred thousand pounds.

Q. During the period of the last few months, there have been allocations or controls of various types imposed by the Government restrictions and regulations on the purchase of those materials, I take it?

A. That is right. Your Department of Commerce issues a quarterly allotment to us, which restricts purchasing very, very sharply and does not permit us to have an inventory of materials too far in advance. I believe the regula-

[fol. 848] tion calls for nothing more than 30 days in advance.

Q. What has been the effect of those regulations so far as the quantities of sheet steel that you have been purchasing at a time in recent months?

A. Well, it cuts it down very sharply. Until recently you could not purchase in large quantities, but of late you can buy all the steel that you want or can buy according to the Department of Commerce.

WALTER HITCHEN, was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, please?
A. Walter Hitchen.
Q. And you live where?
A. In Des Moines, Iowa.
Q. By whom are you employed?
A. Rock Island Motor Transit Company.
Q. In what capacity?
A. General freight agent.
Q. How long have you worked for that company?
A. Since 1938.
Q. And prior to that time your employment was what?
A. With the Burlington Transportation Company.
Q. In your employment with the Burlington Transportation Company and with the Rock Island Motor Transit Company what has been your particular assignment or what work have you done?
A. Well, mainly rates and divisions and some Interstate Commerce work.

Mr. Fowler: There is no question about this man's qualifications as a traffic manager.

[fol. 825] The Witness: Thank you.

Mr. Howland: I appreciate that. One of our difficulties is that we have to make the showing that we hope will satisfy the Commission.

Mr. Fowler: Well, it is all right with me. Go ahead. I thought maybe I was doing you a favor. I am sorry I tried it.

Mr. Howland: I am not critical of you.

Exam. Carpenter: Off the record.

(Discussion off the record.)

By Mr. Howland:

Q. Mr. Hitchen, since becoming associated with the Rock Island Motor Transit Company, have you served on rate committees of the motor carrier industry in this territory

and concerned yourself with the level of rates and the divisions with other carriers?

A. Yes, sir. I am a member of the board of directors of the Middle West Motor Freight Bureau at Kansas City.

Q. Tell us what that is.

A. That is the governing board of the motor carriers of the Middle West and the general rate committee which handles all rate matters for the Middle West Motor Freight Bureau, and the national traffic committee which is a committee appointed by the carriers of the various states, and I was elected by the Motor Carriers of Iowa to represent them on the National Classification Committee in Washington, D. C.

Q. How long ago was that?

[fol. 826] A. The last 10 years I have been on that committee, and also Mr. Rice and I are the two senior members of the Iowa committee, that is the Middle West Motor Freight and the Western Truck Line Committee.

Q. This Middle West Motor Freight Bureau that you referred to, are you connected with that in some official capacity also?

A. Well, on the board of directors. I was president two years ago, but that is a rotary assignment, and for the last 10 years I have been on the board of directors.

Q. Mr. Hitchen, some reference has been made during the course of this hearing to the establishment of joint rates by the Rock Island Railroad with motor carriers for the purpose of establishing interline service or taking care of the combined rail and motor transportation service. Do you happen to be familiar with the policy of the Middle West Motor Freight Bureau with respect to establishing joint rates with rail lines?

A. I am.

Exam. Carpenter: Off the record.

(Discussion off the record.)

By Mr. Howland:

Q. Tell us what your information is on that subject and on what occasions the latter has arisen in the organization.

Q. There has been an easing or lifting of those restrictions which have been in effect?

A. No, sir; there is no easing of restrictions. There is only an easing of being able to purchase the material if you have the permission of the Department of Commerce to buy it.

Q. Well, now, with respect to castings or the burners themselves; those come from points outside the State of Iowa for the most part?

A. Most of the castings come within the State of Iowa. You speak of the burners. We make the burners in our own plant.

Q. You manufacture them yourself?

A. Yes, sir.

Q. Now, on your inbound material other than the castings such as machines, engines for your power mowers and matters of that sort, in what quantities do you normally have those shipped to you?

A. Again, at the present time it is now quite restricting. [fol. 849] There is one engine manufacturer at the present time only shipping 30 or 40 engines a month, but normally we try and have them come in in quantities of 2 to 4 hundred.

Q. When you buy in quantities of 2 to 4 hundred gasoline engines, I take it that a restriction of 5,000 pounds would somewhat hamper your purchases, am I correct in that?

A. That is right. Now, here is an invoice or a bill of lading covering 200 engines from the Lawson Company, weight 7,000 pounds.

Q. How many engines was that?

A. 200.

Q. And a weight of 7,000 pounds?

A. Yes.

Q. Is there any advantage by way of price to your company in purchasing larger quantities?

A. Yes, sir; if nothing more than the freight rates.

Q. But in many instances you do get better price——

Q. Yes, sir.

Q. —when you place a large order. It is like most other items. Now, you understand, I take it, Mr. Cocklin, that

the Rock Island Motor Transit Company has been, since about the 1st of September 1951, operating on a purely temporary motor carrier authority from the Interstate Commerce Commission?

A. Yes, sir.

Q. And I believe you were a witness in the proceeding [fol. 850] held by Examiner Carpenter about the 26th of September 1951?

A. Yes, sir.

Q. Now, do you understand that the present proceeding is an application for permanent authority and that the Rock Island Motor Transit Company has asked for the removal of the 5,000 pound restriction as well as certain other changes? Have you been so informed?

A. Yes, sir.

Q. Now, would the elimination of Rock Island Motor Transit Company service to your town of Griswold or a substantial curtailment of it have any effect on the business of the Laco Oil Burner Company?

Mr. Fowler: Just a moment. Objected to as immaterial, assuming facts not established in this record.

Exam. Carpenter: Off the record.

(Discussion off the record.)

Mr. Fowler: Mr. Examiner, there undoubtedly will be several questions of this same import to which I have individually objected, and it probably would serve the purpose just as well if we had an understanding that we are making the objection to this line of inquiry for the reason that there is no showing in this record to the effect that the Rock Island Railroad or its affiliate have any intention of abandoning any service irrespective of the outcome of this application, and may we have the stipulation that that objection may apply to all inquiries of this character?

[fol. 851] Mr. Howland: I will agree on behalf of the applicant that the objections now made, and heretofore made to similar interrogatories propounded to other witnesses, may apply to further examination of this witness and any future witnesses whom we may call or who may be examined by Mr. Nolan in connection with similar interrogatories.

A. About three years ago the Kansas City Southern applied to the Middle West Motor Freight Bureau for permission to enter the bureau as a member in joint rates [fol. 827] with motor carriers. I was on the board at the time and have been, as I said, for the last 10 years and was there at the time that the application was made by the Kansas City Southern, which was refused and turned down by the board of directors by 12 to 2 votes.

Last year the Texas and Pacific applied for membership in the Middle West Motor Freight Bureau. The bureau at that time turned down the Texas and Pacific in the same manner.

The Rock Island Motor Transit Company has never made application, but has felt it out and the same feeling prevails.

Q. Are you also familiar with an organization known as the Central States Motor Freight Bureau which publishes as an agent for carriers rates in the Chicago territory?

A. Yes, sir, we are by reciprocity a member of that organization.

Q. Are there any railroad carriers who are parties to tariffs published by that organization?

A. No, not in the Central states.

Q. Mr. Hitchen, during the period of your service with the Rock Island Motor Transit Company, have you been familiar with efforts to establish a so-called coordinated part railroad and part motor carrier service between points on the line of the Rock Island Railroad and the Rock Island Motor Transit Company?

A. Well, I haven't had any part in the establishing of it, but I would be informed of the fact that it is being established and with the point of the publication of rates [fol. 828] so we get substituted service directly.

Q. Are you familiar with the manner in which that situation has worked out?

A. Yes, sir, quite.

Q. Can you tell us of the experience and the results which you have had or the carriers have had where service of that kind has been established?

Mr. Fowler: Just a moment. Off the record.

Exam. Carpenter: Off the record.

(Discussion off the record.)

Exam. Carpenter: On the record.

Mr. Howland: I will withdraw that question, and I will ask you this one:

By Mr. Howland:

Q. Does the Rock Island Motor Transit Company handle service for the Rock Island Railroad at Minneapolis and St. Paul?

A. Yes, sir.

Q. Who performs the pickup service in connection with rail shipments originating at either of those cities?

A. I don't know the name of the concern, but it is a private carrier that picks up for the railroad in St. Paul and Minneapolis.

Q. And that is not made by the Rock Island Motor Transit?

A. Not by the Rock Island Motor, no, sir.

Q. Can you tell us the course of which shipments origi- [fol. 829] nating at Minneapolis and destined to the point of Marengo, Iowa, one moving on rail billing and the other on truck billing would take.

A. Yes, sir. The Motor Transit Company would pick up at the shipper in Minneapolis or St. Paul, and it would leave the same night on the truck and get to Des Moines the following day and either delivered in Marengo the late afternoon or the second morning to Marengo.

The shipment by rail would be picked up by the rail pickup agent, whoever he is, taken to the terminal at St. Paul or Minneapolis and would be turned over to the truck the following day. On arrival in Des Moines it might come by truck and it might come by rail to Des Moines, one or the other. Nevertheless, they both wouldn't arrive for two days because of the delay in St. Paul or Minneapolis in the billing and turning over to us or putting in a box car and arrival at Des Moines would be practically the same thing.

There would be one or two days delay before it was transferred to us to deliver to Marengo, so the result

Exam. Carpenter: Mr. Fowler may have a continuing objection to that type of question.

The objection is overruled. Go ahead and answer the question.

Mr. Howland: Will you read the question so that we can get it in mind?

(Question read.)

A. Yes, sir. As time progresses, your customers demand fast service and for us to give fast service we must have fast service both into our plant and out of our plant. At the present time on shipments heavier than 5,000 pounds it is necessary for other carriers to bring them to Griswold.

In taking a sample from our file—and this is not a picked sample; it was taken at random—it shows that on five hauls made by other than Rock Island Motor Transit, the five hauls took 41 days or an average of 8.2 days per shipment.

By Mr. Howland:

Q. Was that from point of origin at Chicago?

A. That was from Chicago to Griswold.

Q. Thank you.

[fol. 852] A. Eight hauls brought in to Griswold by Rock Island Motor Transit from Chicago totalled 29 days, or an average of 3.6 days per shipment.

Now, these shipments were not all over 5,000 pounds. It is a mixture of weights, which shows Rock Island is giving service on heavy shipments as well as light ones because this sampling goes back prior to the 5,000-pound restriction as well as since the restriction was put into effect.

Q. What in your judgment would be the effect of the elimination or substantial curtailment of Rock Island Motor Transit Company's service? Would it require a heavier inventory or would it require you at times to shut down your plant or just——

A. At the present time, it would mean that we would have to shut down our plant. Engine supply for the mowers is very critical and cannot be bought in advance in large enough quantities to carry us through the season. Last season there were several times that we were out of engines

would be two to four days delay between the rail and the truck shipment.

Q. In other words, in all motor carrier billed shipments they would arrive at destination somewhere between two and four days earlier in the normal service?

A. That is right. The rail freight has to be delivered to the rail terminal before it is turned back to us for trans- [fol. 830] fer, whereas our truck just transfers it the next day and it goes right on to Marengo.

Q. What about the case of two shipments moving in the opposite direction, that is from a point like Marengo, which is intermediate between Davenport and Des Moines, to the Twin Cities?

A. Well, it would practically be the same. The shipment may come in by motor truck or by rail from Marengo to Des Moines, but whichever way it would come, if it came by rail it would be in the hands of the railroad, and if we brought it in, we turn it over to the railroad terminal in Des Moines. Then they may send it from there by either trap car or turn it over to the motor transit again for transportation to Minneapolis, whereas we would transfer it from truck to truck the same evening and move it up to Des Moines northbound the same day.

Q. Are you familiar in a general way with the time required in transit for handling of shipments on rail moving between Chicago, Illinois and Des Moines, Iowa?

A. Yes, sir.

Q. What is the fact as to whether there is a difference in the time consumed in transit whether a shipment from Chicago to Des Moines is moved on rail billing or on motor carrier billing?

A. Well, it is practically the same process. The shipment for the motor transit would be picked up by our pickup truck in Chicago and sent out from Chicago the same night. The ones picked up by the railroad or by their agents— [fol. 831] and it is not picked up by the Motor Transit Company, because we don't do their service in Chicago— or it might be brought to the rail terminal, which is in Chicago proper. From there it is sent to Burr Oak for classification. Burr Oak is a classification yards.

Q. Burr Oak is located just outside the corporate limits?

that was holding up shipments and when there was a shipment got to Chicago, Rock Island was bringing them into our plant in as little as 3 days.

Q. Do you know of any other carrier that renders a service to your plant at Griswold which is comparable in point of time consumed or in other respects with the Rock Island Motor Transit Company?

A. Just as I stated a while ago, on this sampling there is a difference of 4.6 days between Rock Island Motor Transit [fol. 853] Company service and the others.

Q. Now, as far as the other carriers who are available to your town and whose service you might utilize on a shipment moving from the east, where would that have to be interlined with either Thornton or McVey?

Q. For a shipment going east from our plant?

Q. No; a shipment moving into your plant from the east.

A. From the east?

Q. Yes.

A. It would have to interline at Omaha and an interline means at least 24 hours' delay, plus an extra hundred miles of travel.

Q. Now, with respect to the character of the service rendered by these other carriers that you have as to tracing of shipments, as to processing or handling of any claims for loss or damage or those features of the service, how does the Rock Island Motor Transit Company service compare with that rendered by the other carriers?

A. Rock Island has been tops. For instance, in our busy season there are many dealers that will not order as soon as they should, and of course they expect the merchandise to be there quicker than humanly possible, but nevertheless there is a lot of checking to do to satisfy our customers, and any time a shipment has gone out by Rock Island, I can call Des Moines and have an answer in not longer than 48 hours, whereas, with the others, apparently they trace [fol. 854] by mail, and it will run to a period of 2 to 3 weeks.

Another point that I would like to bring out why we like to deal with larger concerns such as Rock Island Motor Transit is that we have less trouble on claims, plus a year or two ago we were sending some merchandise through the State Transfer in Nebraska, and they were C. O. D. ship-

A. I believe. I don't know the mileage. I believe it is 15 miles.

Q. It is out of Blue Island?

A. Blue Island is the town and Burr Oak is the transfer point.

Q. Go ahead.

A. There it is classified. Of course, there is all kinds of freight that comes into Burr Oak from all over the country, from other railroads and everything. That is why it has to go for classification to Burr Oak.

The shipments that go west are sent back to Chicago for truck transfer or loaded in a box car to Davenport. Where there are key points, of course, they can't give it to us for delivery west of Des Moines; it has to be loaded in a box car as far as Altoona. If it is for beyond Des Moines, it has to be loaded in a box car to Des Moines. For points west of Davenport, it has to be loaded to Davenport before it can be turned over to the Motor Transit.

A car from Chicago to Davenport does not make Davenport for two or three days and sometimes longer on account [fol. 832] of it going through the Silvis Yards, which is east of the Tri-Cities. The Silvis Yards are the classification yards for the Tri-Cities, and it is classified there and forwarded into the terminal. I am sure the delay from Chicago to these points would be more than that from Minneapolis because of the key point restrictions.

Mr. Howland: I think you may cross-examine.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Fowler:

Q. Mr. Hitchen, you cited a number of instances out of Minneapolis and Chicago. Let's take a terminal which originates a shipment where you have an arrangement that the pickup of the railroad should be done by the transit company and they are in the same building, you wouldn't have that delay, would you?

A. Yes, sir, to a certain extent. The shipment is delivered whether it is in the same building or not to the

ments and it ended up the State Transfer stuck our C. O. D. remittances in their pocket and those remittances amounted to 3 hundred and some odd dollars and the two men at the head of the State Transfer were fined a hundred dollars apiece. Deals like that do not make a manufacturer happy.

Q. Now, have you been handling any national defense contracts at your plant?

A. No, sir; not during this war or should I say policing?

Q. Whatever you want to call the Korean action.

Mr. Howland: I think you may cross-examine.

Exam. Carpenter: Mr. Fowler.

Cross-examination.

By Mr. Fowler:

Q. As I understand it, Mr. Cocklin, Griswold is not located on the rail lines of the Rock Island Railroad?

A. No, sir.

Q. It is located approximately 6 miles south of U. S. highway No. 6?

A. Yes, sir.

Q. And Griswold is served at the present time by the [fol. 855] Chicago, Burlington and Quincy Railroad?

A. A branch line, sir.

Q. Does the Burlington truck line serve Griswold?

A. No.

Q. Now, with respect to the common carrier service you have in addition to the service of the Rock Island Motor Transit, you have the McVey Transfer Company?

A. Yes, sir.

Q. Where are their headquarters?

A. Greenfield.

Q. Then you also have the Thornton Transfer Company?

A. Yes, sir.

Q. Where are their headquarters?

A. Griswold.

Q. Now, both of those concerns are common carriers by motor vehicle?

A. Yes, sir.

Q. And they both have terminal facilities at Omaha for inter-change——

A. Yes.

Q. —with other carriers. Now, does Watson Bros. serve Griswold, Iowa?

A. No, sir. If they have a permit to serve Griswold, they do not make any daily stop at Griswold.

Q. Now, on your volume shipments of steel—I am talking [fol. 856] now about normal times——

A. Yes, sir.

Q. —you get those shipments in at least truckload or carload, do you not?

A. Yes.

Q. Do you use both rail and motor carrier service for your volume shipments of steel?

A. Back in the old days, yes, but the last few shipments that were sent in by rail, the damage on the steel was so great that I doubt if we will ever go back to it.

Q. So the result is that you are now having your volume shipments of steel and engines and any volume shipment by truck rather than by rail?

A. Yes, sir.

Q. On your steel shipments, do those move out of the Chicago steel district?

A. Yes, sir.

Q. Gary, and so forth?

A. Yes, sir.

Q. And on a volume shipment, of course, the shipment is controlled by the shipper, is it not?

Mr. Howland: You mean the routing?

By Mr. Fowler:

Q. The routing.

A. It is controlled by us.

Q. What type of motor carrier do you use? I am talking [fol. 857] now about volume shipments on steel. Do you use exclusively Rock Island Motor Transit?

A. At the present time——

Q. I am talking about the normal situation.

A. Normally, yes.

railroad employees and their billing is made in their office, and there is usually a delay at rail offices whether it is a large or small station. You don't get it out the same day as you do with the motor carrier.

Q. We have had some testimony here about your arrangement at Iowa City. There you are all in the same room and the only division line is a chalk line.

A. Yes, sir.

[fol. 833] Q. And the Rock Island Motor Transit brings in the freight on a truck and unloads the rail freight at point A, and the transit freight is next door to it at point B. You don't mean to tell me that that causes a day's delay?

A. It may not at Iowa City, but if those shipments are coming in from some point and transferred, yes.

Q. Let's talk about Iowa City.

A. There is a certain amount of delay because of the billing.

Q. It wouldn't be a day?

A. I should say so, yes.

Q. It would take a day to accomplish that transaction?

A. Knowing the railroads as I do, I believe there would be that delay.

Q. Then your difficulty is in your pickup arrangement, isn't it?

A. Well, yes.

Q. In other words, you take this long delay at Minneapolis that you are claiming about, that is the railroad company's fault, isn't it?

A. Well, yes, I would say so. If I had my own ideas put into effect, perhaps I could change the thing and make it better and perhaps someone else could too, but you can't change set ideas in the way they work today.

Q. The railroad company is the grandma of the Rock Island Motor Transit, isn't it?

A. Yes, but sometimes the grandchildren are a little [fol. 834] smarter than the grandparents, you know.

Q. That is the situation?

A. Yes.

Q. And it comes about due to the fact that at certain

terminals your rail pickup and your transit pickup is handled separately?

A. Yes.

Q. And at different locations?

A. And at different locations.

Q. At other points you do have them at the same location?

A. That is right.

Q. Where the Rock Island Motor Transit Company picks up and delivers for the railroad?

A. Yes, sir.

Q. And with respect to its actual over-the-road movement it could be loaded on truck?

A. Away from the key point restrictions.

Q. I know outside of the key point restriction. The only reason why that would ever move by box car would be in a situation where there was a surplusage or an overage of motor truck freight?

A. That is right.

Q. In other words, if at Minneapolis there was a congestion of transit company freight, it would be put on a rail car, or by the same token, if there was an overage of rail freight and some available truck space, it would be handled by truck?

[fol. 835] A. Well, maybe they occasionally have used box cars, but that is not the advisable way to handle it.

Q. It could be?

A. It could be.

Q. As I understand your operation, it makes no difference whether the freight is billed on Rock Island Motor Transit billing or Rock Island Railroad freight billing, it can be handled all by truck or it can be all handled by truck or all by rail car?

A. Yes, it can be.

Q. Mr. Hitchen, are there joint rate agreements between certain railroads and certain motor carriers, particularly in the Southwestern part of the country?

A. To my knowledge the Southwestern Motor Freight is the only bureau that has rail carriers in its tariffs.

Q. And that is an arrangement they have with the Texas-Pacific and the other rail carriers in that territory?

A. The Kansas City Southern and Frisco Lines.

Mr. Fowler: That is all.

Exam. Carpenter: Redirect?

Redirect examination.

By Mr. Howland:

Q. Counsel has asked you about the handling of these rail billing shipments. Can the Rock Island Motor Transit employees in a matter of practical business bill out the shipment on railroad billing?

A. No, sir.

[fol. 836] Q. Why not, if they are all working for the same people?

A. Well, they don't. They don't consider us working for the same people.

Q. In other words, is it a question of classification and union organization that enters into matters of that character?

A. Well, to a certain extent, of course.

Q. Do you happen to know, Mr. Hitchen, whether there is any point at which the billing work and the clerical work in connection with billing out a railroad shipment is handled by Rock Island Motor Transit employees?

The Witness: Will you repeat that question?

Exam. Carpenter: Read it.

(Question read.)

A. No, sir, I don't know of any.

By Mr. Howland:

Q. You say that that is likely to result in some period of delay?

A. Sure, yes.

Q. With respect to this Chicago situation, Burr Oak is the terminal at which the billing work is done on rail shipments, is it not?

A. Yes, sir.

Q. And Burr Oak is adjacent to the Blue Island yards of the railroad, which is the point at which the freight trains are made up for departure from the Chicago terminal area?

A. Yes, sir.

[fol. 837] Q. And in the physical handling of shipments assembled in the down town area of Chicago, whether they would be in carloads or less than carloads, the cars are first switched from down town Chicago out to Blue Island or Burr Oak, whichever you wish to call it?

A. That is the way I understand it. Of course, Rock Island Motor Transit do some shipment service for them where they shuttle down town for freight.

Q. That is between freight houses?

A. That is right.

Mr. Howland: That is all.

Exam. Carpenter: Anything else, Mr. Fowler?

Mr. Fowler: No.

Mr. Nolan: I have a few questions.

Exam. Carpenter: All right.

By Mr. Nolan:

Q. What is the fact as to whether or not it takes different training or at least a combined training for a man to be able to handle rail billing and truck billing? Can one trained in one field do that without additional training in the other field?

A. Technically, no. A tariff is a tariff and a tariff man becomes used to them, but for constant work it would need separate training.

Q. I am talking from a practical standpoint, the fact that you have a young man working in the motor truck office [fol. 838] and he is able to read truck rates and classify the freight, can you take that same man without training and turn over a rail freight shipment to him and have him properly classify it and rate it?

A. Not immediately you couldn't do that. He would need further training to handle both kinds. There is a difference in the tariffs.

Q. The shipper was the Alason——

A. Lawson Company.

Q. Lawson Company of New Holstein, Wis.

A. And it was shipped from New Holstein to Chicago by Clipper.

Q. And then transferred to Brady Motor Freight and Brady Motor Freight delivered it to you on—you said within 4 days.

A. Yes, sir; 4 days from Chicago.

Q. You mentioned a Rock Island Motor Transit bill of lading that you had in your hand. Will you let me look at that?

A. Which one are you referring to?

Q. Early in your testimony you mentioned some——

A. I have eight.

Q. Just let me look at them.

A. Would you like to examine these at the same time, Mr.——

Mr. Howland: I would like to see the ones that you have so that we can——

The Witness: Those are all Rock Island.

Mr. Fowler: That is all I want.

By Mr. Fowler:

Q. The shipments which you receive or those which you ship by Rock Island Motor Transit Company, of course, are on motor carrier billing?

A. Yes, sir.

Q. They are not on rail billing?

A. Yes, sir.

[fol. 861] Mr. Fowler: That is all I have.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Howland:

Q. Mr. Cocklin, I would like to ask you as to whether this Brady Motor Freight Company or Brady Transportation Company—I am not just sure——

A. Brady Motor Freight.

Q. The Brady Motor Freight Company, does that render a regular service?

A. No, sir? That is just the point. If they only come in to Griswold when there is a large shipment, we don't want to see them. We want somebody that wants to take care of us on a shipment if it is even less than a hundred pounds.

Q. Have you ever had any service from Brady on shipments of less than 5 or 6 or 7 hundred pounds?

A. I would hate to say the exact poundage on that, but no small deliveries have been made by Brady.

Q. With what regularity does Brady get into Griswold, if you have observed it?

A. I would doubt if they make it over three or four times a year.

Q. Now, you referred to the situation that some of these trucks that were transporting your shipments of sheet steel, that you had had difficulty in the condition in which they had arrived. What is the fact about that? As I recall, [fol. 862] your statement with respect to that was stricken as not being responsive to the question, but I want to find out a little bit about that. What has been your experience with respect to shipments coming in by either these live-stock truckers or——

A. Why it is damaged?

Q. Is it damaged——

A. Yes, sir.

Q. ——when it reaches you. What is the situation?

A. Most of those carriers do not have an enclosed body for one thing, and if they run into any rain or snow or sleet or any form of moisture, the steel is terribly rusty and when it comes in in a rusty state we have to take it sheet by sheet and if it is bad enough we have to metal crimp it to remove the rust and then oil it.

If the rust has not eaten into the steel enough sometimes we can get by by just oiling it, but even oiling it is expensive. Another thing, it seems as though those type of carriers bend the edges an awful lot and when an edge is bent it means by the time you get it sheared out of there you have a very small sheet left.

Q. It is hard enough to train them in one, isn't it?

A. Yes, it is hard enough to train them to use one set of tariffs.

Mr. Nolan: That is all.

Mr. Fowler: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Nolan: Mr. Minchow.

A. H. Minchow was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you give us your name, place of residence and occupation?

A. A. H. Minchow.

Q. You live at Oakland, Iowa?

A. Six miles east of Oakland.

Q. What is your address?

A. Oakland.

Q. What is your occupation?

[fol. 839] A. Superintendent of Northern Natural Gas plant at Oakland, Iowa.

Q. And is that a station, substation on the pipe line?

A. That is a compressor station, yes, sir.

Q. How many men are engaged in operating that compressor station there?

A. There are 51.

Q. Fifty-one men?

A. Yes, sir.

Q. That is operating the compressor station and maintenance, I suppose, of the pipe line?

A. That is the compressor station.

Q. Then do you have other men in that area who operate the maintenance end of it?

A. Of the pipe line, yes.

Q. You live out at the compressor station, is that correct, Mr. Minchow?

A. That is right.

Q. Is that on the highway?

A. No. 6.

Q. Highway No. 6, six miles east of Oakland?

A. That is right.

Q. What shipments do you have that go into that plant, Mr. Minchow?

A. We have all of our repairs that come in there for our [fol. 840] engines there.

Q. How many shipments would you have come into the plant?

A. Well, during construction when we are doing a lot of building it is day and night.

Q. Are you still under construction?

A. Yes, sir.

Q. How long will that construction last?

A. Well, it will be indefinitely, I guess, the way they are growing. We had it last year, we had it in 1948, 1951, and we are having it again this year.

Q. These 51 men, are they working on the construction end of it?

A. No, they are regular employees.

Q. Regular employees?

A. Yes.

Q. Do you have occasion to have shipments come in when you are not expanding or constructing?

A. Yes, we do.

Q. What are those shipments?

A. Repairs for engines there.

Q. Tell us how that compressor station works, just briefly. Is that where the gas is boosted along so it will get to the next station?

A. That is right. The compressor stations are approximately 100 miles apart.

Q. Where is the next compressor station on that line? [fol. 841] A. North or south?

Q. Well, north.

A. Ogden, Iowa.

Q. That is gas, not gasoline?

A. That is natural gas, yes, sir.

Q. You say you have shipments coming in about every day to the plant there, is that correct?

A. Approximately every day.

Q. Where do those shipments come from?

A. From the east mostly.

Q. When you say the east, you mean east of Iowa, like Chicago and points east?

A. Chicago and New York, Buffalo, New York and Pennsylvania.

Q. What would be the size of those shipments?

A. Well, it all depends on motor freight, all the way from 100 pounds to 5,000 pounds.

Q. Did you ever have shipments in excess of 5,000 pounds?

A. Well, I can't recall of any.

Q. You are the manager of the maintenance or I mean manager of the compressor group there at Oakland?

A. Yes, sir.

Q. Naturally, you are not located on a railroad, are you?

A. No, we are not.

Q. You are six miles off of the railroad?

A. Six miles off.

[fol. 842] Q. What company has been hauling your parts to you there and repairs and things that you have been getting by truck?

A. Rock Island and Iowa-Nebraska.

Q. Do you have any preference between the Rock Island Motor Transit and Iowa-Nebraska in regard to the quality of service one gives over the other?

A. One brings it from the west, Iowa-Nebraska brings it from the west, our shipments out of Omaha.

Q. How do your shipments come in from the east?

A. Rock Island.

Q. Has that service been satisfactory?

A. Yes, sir, it sure has.

Q. Does the Iowa-Nebraska give a daily service out of Omaha?

A. Well, whenever we call them.

Q. That is on a call that you get service there?

A. Yes.

Q. The only service that they have given you is from the west or from Omaha?

A. Yes.

Q. The Rock Island Motor Transit has handled your shipments from the east?

A. That is right.

Q. Do you know of any motor carrier that gives a regular daily service for shipments coming from the east?

A. No, sir.

[fol. 843] Q. Into Oakland?

A. No, sir.

Q. If you don't know, then you wouldn't know where to replace this service if the Rock Island Motor Transit Company was required to terminate its operations or curtail its operations?

Mr. Fowler: Just a moment. That is objected to as immaterial, and it assumes a fact that has not been established in this record. I have not heard any statement that has any foundation in it that anybody is going to quit service because of this application.

Exam. Carpenter: Objection overruled.

Mr. Nolan: You may answer.

Exam. Carpenter: Do you remember the question?

The Witness: No.

Exam. Carpenter: Read it.

(Question read.)

A. Well, I don't know who we would get.

Mr. Nolan: That is all.

Mr. Fowler: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

Exam. Carpenter: We will adjourn until Monday morning at 9:30 in this same room.

(At 3:20 p. m., March 21, 1952, an adjournment was taken until 9:30 a. m., March 24, 1952.)

[fol. 844] TRANSCRIPT OF PROCEEDINGS OF MARCH 24, 1952

Exam. Carpenter: Let's proceed.

R. L. COCKLIN was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, and in giving your evidence, speak so we can all get it.

A. R. L. Cocklin.

Q. Your home is where?

A. Griswold, Iowa.

Q. Griswold is a town of about what population?

A. Approximately 1,200.

Q. Where is Griswold located?

A. Griswold is located about 6 miles south of highway No. 6 and approximately 50 miles east of Omaha, Nebr.

Q. And it is close, I believe, to the county line between Cass and Montgomery Counties?

A. It is approximately 5 miles from the north line of Montgomery County and about 1 mile east of the Pottawattamie County line.

Q. And what is the nature of that community; that is, what businesses, industries, factories?

A. It is mainly a farming community, but we have our factory which has been in operation there for approximately 28 years. Also, there is a cabinet works which has been manufacturing kitchen equipment and store fixtures for approximately 4 or 5 years.

[fol. 845] Q. And in addition to those factories or manufacturing enterprises, I take it you have the usual retail establishments and service establishments for——

A. That is right.

Q. ——a community in a farming region in Iowa.

A. And we also have a large egg plant which ships, transport after transport of eggs to the east coast.

Q. You said that you had your plant or we have our plant there. What business is that to which you refer?

Q. Rock Island?

A. Yes, sir.

Q. What about the stock haulers who haul steel and that sort of thing back into Iowa, do you use their services?

A. No, sir; only in cases when the steel company does give it to them.

Q. Yes. In other words, there is——

A. We specify routing, but they don't necessarily always follow it.

Q. The point I was trying to develop was, are there other transportation agencies which are available for the transportation of steel in volume shipments from Chicago out into your territory?

A. Yes; but the condition of the steel when it arrives is horrible.

Q. Would you just answer my question.

A. Yes, sir.

Mr. Fowler: I move to strike the answer as a voluntary statement of the witness, not an answer to the question.

Exam. Carpenter: It will be stricken.

[fol. 858] By Mr. Fowler:

Q. So there are other transportation agencies available for the transportation of steel in volume lots from Chicago to Griswold, Iowa?

A. They have brought them in.

Q. Okay. Now, your engines—and again I am speaking of normal times—do you order the engines in quantities sufficient to make up a truckload or a rail carload?

A. No, sir, because—— May I elaborate?

Q. Go ahead, go ahead.

A. Because in normal times we couldn't afford to order in those quantities.

Q. The fact is then, you don't order them in those quantities?

A. No, sir.

Q. So you prefer to order them in less-than-volume shipments for the reason that you don't want to——

A. That would amount to 2 to 4 hundred engines per shipment.

Q. So the fact is you order less-than-truckload on volume shipments on your engines——

A. Yes, sir.

Q. —for the reasons you have stated. Let me see that bill of lading you referred to.

A. Which one, sir?

Q. The one you first referred to.

A. The Lawson?

Q. Yes, sir. What was the point you made about this bill [fol. 859] of lading? I have forgotten.

A. That was in the compiling of five shipments to secure an average time. Now, that particular shipment there was fairly good time. That happened to be 4 days, which helped out some of the other slower ones.

Q. The bill of lading you just handed me is a bill of lading of the Brady Motor Freight.

A. Yes, sir.

Q. Pro No. 282224 from the Aluson Company at New Holstein, Wis., and was delivered to you at Griswold, Iowa, by the Brady Motor Freight and the elapsed time on the shipment, you say, was 4 days?

A. Four days from Chicago.

Q. And it involved a weight of 7,000 pounds.

A. 7,000 pounds.

By Mr. Howland:

Q. Is that correct, that the delivery was made by Brady, delivery to you?

A. Yes, sir; it was made direct to us. Whether that is legal or not I don't know. We hardly ever see the Brady transportation. Now, I do not——

Exam. Carpenter: Off the record.

(Discussion off the record.)

By Mr. Fowler:

Q. From the shipping documents which you have handed me, it is a shipment leaving Chicago on February 29, 1952. [fol. 860] A. Yes, sir.

And another thing when you have damage from that type of carrier, it seems like you are tracing for months and months to get a claim filed and a refund.

Q. Those carriers for the most part are carriers whose trucks are either stock-hauling trucks or some similar type [fol. 863] of equipment?

A. That is right.

Q. Those carriers render no regular service——

A. No, sir.

Q. ——to your plant at all, and I take it you may never see the carrier, may never be back again with any other shipment after you have had one delivered by them?

A. That is right. Maybe we will only see him on one delivery.

Mr. Howland: I think that is all.

Exam. Carpenter: Re-cross? You are excused.

(Witness excused.)

J. L. McCluskey, was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. You are Mr. J. L. McCluskey?

A. Yes, sir.

Q. You live at Brooklyn, Iowa?

A. Yes, sir.

Q. What is your occupation?

A. Y. and M. Hardware.

Q. Is that the name of the firm?

A. Y. and M. Hardware.

Q. Do you have a partner in the business?

A. York and McCluskey, and it is always Y. and M.

Q. York is the Y. and you are the M.?

[fol. 864] A. That is right.

Q. How long have you been in business in Brooklyn?

A. Seven years.

Q. And do you handle a regular line of retail hardware, supplies, and equipment?

A. Plumbing and heating.

Q. Also handle a lot of plumbing and heating, is that right?

A. Yes, sir.

Q. How about appliances?

A. Appliances, too.

Q. What are your sources of supply from out-of-State points, Mr. McCluskey?

A. Well, the majority, you might say Chicago mostly. We get some from St. Louis and then occasionally from Kohler, Wis.

Q. What are the quantity or size of those shipments on an average?

A. Oh, ours are small. I don't suppose very seldom we would ever get a thousand pounds, but more ordinary is under that.

Q. With what frequency do you have shipments come in from those out-of-State points?

A. They are pretty regular.

Q. Two or three times a week?

A. Oh, from out of State, not quite that often. More like once a week from out of State.

Q. What transportation company have you been using [fol. 865] getting those shipments from out-of-State points?

A. Well, Rock Island if possible. We always specify——

Q. The Rock Island Motor Transit Company?

A. Rock Island Motor Transit.

Q. Brooklyn is how large a town?

A. About 1,400. Around 1,400.

Q. 1,400, and it is located on U. S. highway 6, is it not?

A. Yes.

Q. And about half way between Des Moines and Davenport?

A. Just a little closer to Des Moines than it is Davenport.

Q. Now, you said you specify the Rock Island Motor Transit Company for these shipments. Why do you do that?

A. Service.

Q. Does the Rock Island Motor Transit provide you, and has it provided you with a daily service into Brooklyn for your shipments coming from these out-of-State points?

A. Yes.

Q. Do you know of any other transportation company that provides the same type of service?

A. No; I don't.

Q. Now, what is the fact as to whether or not there are a great many trucking companies that go through Brooklyn? You see their trucks through there every day, do you not?

A. That is right; a lot of them.

Q. But do those companies stop regularly and make deliveries?

[fol. 866] A. Very seldom.

Q. Have you had shipments come in by some other companies?

A. Iowa-Nebraska has brought some shipments.

Q. And was that at your request or——

A. No.

Q. —at the shipper's?

A. It was from the shipper.

Q. With what frequency or how often did you ever get shipments from Iowa-Nebraska?

A. Well, I have never checked back only since the first of the year. I checked back since the first of the year and I got three.

Q. You have had three shipments?

A. Three shipments.

Q. Since the first of the year. You said you got about at least one shipment a week through the Rock Island Motor Transit Company?

A. Oh, yes.

Q. That is from out-of-State points. What is the fact as to whether or not you get other shipments in by Rock Island Motor Transit from points within the State?

Mr. Fowler: Now, just a moment. That is objected to as immaterial to any issue in this case.

Exam. Carpenter: Objection sustained.

By Mr. Nolan:

Q. State whether or not you have any other transpor-

[fol. 867] tation company than the Rock Island Motor

Transit Company giving a local service to Brooklyn from either out-of-State points or intrastate points?

Mr. Fowler: Now, just a moment. Objected to as repetition and for the reason that it asks, inquires about intrastate service.

Exam. Carpenter: The portion of the question relating to intrastate service is stricken.

Mr. Nolan: We want to make an offer by this witness to show there is no other company delivering either interstate or intrastate shipments into Brooklyn other than Rock Island Motor Transit, no other company handling intrastate shipments in there. That is what we want to show. That is part of the case.

Mr. Fowler: I move that the voluntary statement of counsel be stricken for the reason it is incompetent, irrelevant, and immaterial.

Exam. Carpenter: I think he was making it as an offer of proof. I don't know.

Mr. Nolan: That is what the intent was.

Exam. Carpenter: The record will so stand.

By Mr. Nolan:

Q. Now, Mr. McCluskey, you say Brooklyn is around 1,400 population.

A. Around that, 14 or 15 hundred.

Q. And state what the fact is as to whether or not Brooklyn has any industry of any type.

[fol. 868] A. No.

Q. Manufacturing industry.

A. No manufacturing industry.

Q. Then I assume Brooklyn has all the usual retail and service establishments of a community or town that size, has in an agricultural area?

A. That is right.

Q. Such as garages, filling stations, implement stores, retail stores of all types. Now, what effect would a stoppage or a material curtailment of the service of the Rock Island Motor Transit Company have upon your business in Brooklyn?

A. Well, the public demands service and we do because no dealer wants to stock carload lots of stuff. We can't

afford it, and this way we can order in small quantities and get them regular and they are delivered right to the door.

Q. Well, what would the effect be, detrimental or otherwise?

A. It would be detrimental because a fellow wouldn't carry the stock.

Q. I believe you testified that you know of no other transportation service comparable or giving the same type of service the Rock Island Motor Transit Company is giving.

Mr. Fowler: Objected to as repetition.

By Mr. Nolan:

Q. Is that correct?

A. That is correct.

Mr. Fowler: Objected to as repetition.

[fol. 869] Exam. Carpenter: Answer the question.

Mr. Nolan: That is all.

Cross-examination.

By Mr. Fowler:

Q. As I understand it, your principal interstate shipments involve Chicago destination to Brooklyn and at the present time you are using Rock Island Motor Transit?

A. That's right.

Q. You have had three shipments since the first of the year delivered to you by the Iowa-Nebraska Transportation Company?

A. That is right.

Q. In addition to Iowa-Nebraska, there are other common carriers serving Brooklyn on Chicago shipments?

A. Well, I couldn't say because none has ever solicited me or anything.

Q. But Iowa-Nebraska has?

A. Iowa-Nebraska.

Mr. Fowler: That is all.

Exam. Carpenter: Any redirect?

Mr. Nolan: That is all.

Exam. Carpenter: You are excused, Mr. McCluskey.

(Witness excused.)

H. H. MASTELLER was sworn and testified as follows:

Direct examination:

By Mr. Nolan:

Q. Will you state your name, place of residence, and [fol. 870] occupation, please?

A. H. H. Masteller.

Q. And what is your occupation, Mr. Masteller?

A. I am in the hardware business with my son-in-law.

Q. At Brooklyn, Iowa?

A. That is right.

Q. How long have you been so engaged?

A. I am on my third year.

Q. How long have you lived in the Brooklyn community?

A. Three years.

Q. Where did you live before that?

A. Atlantic, Iowa.

Q. Now, are you familiar with the transportation agencies and facilities of Brooklyn, Iowa?

A. I think I am.

Q. What agency have you been using to get your shipments into Brooklyn?

A. The Rock Island transportation.

Q. That is Rock Island truck line?

A. Truck line; that is right.

Q. From what points do you have out-of-State shipments come from?

A. Well, not too many. Chicago and Louisville, Ky. We deal—may I elaborate on that?

Q. Surely. It is an open meeting. Go ahead.

[fol. 871] A. —with Belknap people and they are located at Louisville. We designate the Rock Island, but of course we haven't been able to get that service out of Louisville, Ky.

Q. You say you haven't been?

A. No.

Q. Was that on account of some restriction?

A. I don't know, I am sure.

Q. What size shipments do you get from Louisville?

A. Oh, I would say under a thousand pounds.

Q. Since when haven't you been able to get that service out of Louisville, Ky.?

A. When haven't we?

Q. Since when haven't you been able to get service out of Louisville?

A. We do get service, but we get it over some other transportation company.

Q. I see. You don't get it through the Rock Island Motor, is that what you mean to say?

A. That is right. That is what I am trying to say.

Q. Did you formerly get it through Rock Island Motor Transit?

A. I am not sure. Not since I have been there. My son-in-law run this store before I come there, and I am not sure whether they did or not.

Q. Is the service you are now getting on those inbound shipments from Louisville, Ky., as satisfactory as ship-[fol. 872] ments you get in from other points on the Rock Island Motor Transit?

A. There is one outstanding incident that I might relate if I have the opportunity that isn't satisfactory.

Q. All right, what is that?

A. That was a shipment ordered by us around the first week of December, and it left Louisville on the 18th of December by Heuber and Heuber Company, and it wound up in Omaha, Nebr., after we had put a tracer on it. We wired the company what had become of this shipment, and it arrived at our store on the 23rd day of February.

Q. Who brought it to your store, what transportation——

A. Pardon me, I want to get this right. It was the 23rd day of January.

Q. What company delivered it to your store at Brooklyn?

A. Iowa-Nebraska.

Q. How has the service been by the Rock Island Motor Transit Company for out-of-State-point shipments? that you have had any experience with, of course.

A. All right.

Q. What was the size of that shipment from Louisville?

A. I believe it was in the neighborhood of 2 or 3 hundred pounds.

Q. Now, with what frequency do you have shipments come into your store from out-of-State points which have been delivered by the Rock Island Motor Transit Company?

A. Well, I just wouldn't like to say exactly, but——

[fol. 873] Q. Approximately.

A. From out-of-State, you said?

Q. Yes. Out of State or in the State.

Mr. Fowler: Just a moment.

Mr. Nolan: Just a minute. Let me ask the question.

Mr. Fowler: Go ahead and ask it and I will make my objection.

Mr. Nolan: Will you give me an opportunity to ask the question then?

By Mr. Nolan:

Q. How frequently do you have shipments come into your place of business which are brought into Brooklyn by the Rock Island Motor Transit?

Mr. Fowler: Just a moment. That is objected to for the reason that it is immaterial unless the inquiry goes to interstate traffic.

Mr. Nolan: I will go on after I find the frequency of the shipment.

Mr. Fowler: Just a moment. I made an objection.

Exam. Carpenter: Objection sustained.

By Mr. Nolan:

Q. Let me ask it this way: What portion of your shipments would you say are shipments from outside the State?

A. About one third.

Q. And then how frequently do you get shipments from out-of-State points by the Rock Island Motor Transit Company?

A. Oh, perhaps one a week.

[fol. 874] Q. Altogether, you would have about three shipments a week coming into your place at Brooklyn?

A. That is right.

Q. Do you know of any company that gives that type of service to Brooklyn that the Rock Island Motor Transit Company has been giving?

A. I do not.

Q. Now, where are you located, how far away from U. S. highway No. 6?

A. Perhaps a city block.

Q. Are you on the north-and-south street or on the east-and-west street?

A. On the north-and-south street.

Q. You no doubt see a great number of trucks going through Brooklyn daily of different companies?

A. That's right.

Q. Do any of those trucks make regular stops there that you know of?

A. I wouldn't be in a position to say whether they do or not, but to my knowledge they don't make regular stops.

Q. The deliveries made to your store by the Rock Island Motor Transit, state whether or not those are made from a smaller truck or a peddle truck.

A. That is right; they are.

Q. What is the fact as to whether or not your streets and [fol. 875] alleys in Brooklyn are narrow and difficult for a big semitrailer to make deliveries in the town?

A. That is true.

Mr. Nolan: You may cross-examine.

Mr. Fowler: No cross-examination.

Exam. Carpenter: You are excused, sir.

(Witness excused.)

D. W. Hubbard was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. State your name, place of residence, and occupation, please.

A. D. W. Hubbard, lumber man.

Q. Is that a local lumberyard or a line yard?

A. It is privately owned. We own it.

Q. You are the owner and operator of the lumberyard?

A. That's right.

Q. How long have you been in business in Brooklyn?

A. Five and a half years.

Q. You handle, I assume then, a full line of building materials?

A. Building material; that is right. And some hardware.

Q. And hardware?

A. Some hardware. And millwork.

Q. And millwork. Do you handle any farm supplies such as gates, water tanks, heaters, things of that kind?

[fol. 876] A. Yes; we do. Farm gates especially.

Q. You understand what is involved here, do you not?

A. Yes.

Q. Attempting to continue the operation of the Rock Island Motor Transit as it had operated over the past several years. Have you been using the Rock Island Motor Transit Company service for your inbound shipments?

A. I have.

Q. From what source do you get shipments brought into Brooklyn, Iowa?

A. I would say from Des Moines, Davenport, Chicago, Sterling, Ill.

Q. What do you get from Chicago?

A. We get some paint from Chicago. Of course, steel and asphalt shingles move out of Chicago by semi lots. We buy those in straight semi lots as a rule.

Q. What do you get from Sterling, Ill.?

A. Hardware.

Q. Do you handle fence materials, woven wire, barbed wire?

A. Fence materials.

Q. Steel posts?

A. Yes, sir; that is right.

Q. What company has been handling your shipments from Chicago and Sterling, Ill.? What company has been billing the shipments?

[fol. 877] A. When you say Chicago, that takes in steel and asphalt. That is handled mainly by your truckers who have booking agencies in Chicago.

Q. That is, livestock haulers that get a load back, is that right?

A. That is right; yes.

Q. And they haul shingles?

A. And wire. They as a rule haul that. We haven't any control over who hauls it. We may state our preference, but that doesn't always hold out.

Q. Do they sometimes comply with your routing of that?

A. Not very often.

Q. How does your less-than-truckload quantities come in, Mr. Hubbard?

A. By Rock Island Motor Transit.

Q. And do you specify that service?

A. Yes, sir; we do.

Q. Why?

A. Well in our line, especially millwork, we sell several houses every year, and you definitely have to give unexpected service on millwork items and we get good service from Des Moines here. I can call Des Moines as late as 2 in the afternoon and the Rock Island will pick that up and have it in Brooklyn for me the following morning.

Q. I am talking about out-of-State points now.

[fol. 878] A. Out-of-State points?

Q. Yes. Do you get any millwork from Rock Island?

A. No; I don't.

Q. Your paint and hardware, as I understand it, come from Illinois points?

A. A lot of it; yes.

Q. On those shipments, do you specify Rock Island Motor Transit service?

A. We do; yes.

Q. How has that service been in the past?

A. It has been very good.

Q. What effect would it have upon your company's business if the operation of the Rock Island Motor Transit Company were eliminated or materially reduced?

A. It would hurt our service a lot. We pride ourselves on giving service, and they do give daily service to us at Brooklyn.

Q. Do you know of any other transportation company that provides the same type of service as the Rock Island Motor Transit does to Brooklyn?

A. To my knowledge, there are none.

Q. And how often would you say you have shipments come into Brooklyn from out-of-State points by the Rock Island Motor Transit Company?

A. Oh, I would average probably two or three times a week.

Q. What portion of all of your shipments that are [fol. 879] brought in by the Rock Island Motor Transit would you say were from out-of-State points?

A. What portion. Oh, probably a fourth to a third.

Mr. Nolan: You may cross-examine.

Mr. Fowler: No cross.

Exam. Carpenter: You are excused.

(Witness excused.)

VERNON WOLFE was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you state your name, place of residence, and occupation?

A. Vernon Wolfe, mayor of Brooklyn.

Q. Now, as I remember, you are retired, are you not?

A. That is right.

Q. Your main occupation is mayor of the Town of Brooklyn?

A. That is right.

Q. Why do you appear here, Mr. Wolfe——

Mr. Fowler: Just a moment.

By Mr. Nolan:

Q. —insofar as this application may affect the Town of Brooklyn?

Mr. Fowler. All right, go ahead.

A. On account of our streets. Our town is 102 years old and that is horse-and-buggy days.

By Mr. Nolan:

Q. You mean the town was built along horse-and-buggy [fol. 880] lines?

A. That is the idea, and the semi truck cannot get up our alleys. That is impossible, and we cannot allow them to unload in the middle of the street.

Q. What effect does the service of the Rock Island Motor Transit Company have, and how does that company relieve that situation?

A. The semis unload at the depot and they have a small truck service that brings it up and he can get in at any back door.

Q. In other words, you mean the Rock Island Motor Transit has a small peddle truck——

A. That is right.

Q. —to deliver the merchandise, whereas other companies try to unload direct from the big truck, is that right?

A. That is right.

Q. Anything else?

A. Nothing of any interest; I don't believe.

Mr. Nolan: That is all. Thank you very much.

Exam. Carpenter: Cross-examine, Mr. Bradshaw.

Mr. Bradshaw: No questions.

Exam. Carpenter: You are excused, sir.

(Witness excused.)

Exam. Carpenter: We will have a 5-minute recess.

(Short recess.)

WILLIAM J. CREAGAN was sworn and testified as follows:

Direct examination.

[fol. 881] By Mr. Howland:

Q. You may state your name, place of residence, and occupation, please.

A. William J. Creagan, Rockford, Ill. I am with the Knox Motor Service Company, Incorporated.

Q. What is the business of the Knox Motor Service?

A. We are a common carrier in interstate and foreign commerce.

Q. In what territory does Knox Motor Service operate as such carrier?

A. Our authority extends to the north to Milwaukee, Wis., to the east, Chicago commercial zone, to the west, Freeport, Iowa—that is the northern part of Illinois, and we blanket the northern part of Illinois. Our southern extremity would be the Quad Cities, I believe it is called, and Peoria.

Q. You referred to a point of Freeport, Iowa.

A. Illinois—I'm sorry.

Q. Freeport, Ill., is the point?

A. That is correct.

Q. You don't operate into Dubuque, Iowa, I take it.

A. No. The only Iowa points are those points in the Tri Cities or Quad-Cities commercial zone.

Q. That would be Davenport and Bettendorf, Iowa?

A. That is correct.

Q. And the communities on the Illinois side of the Mississippi River?

[fol. 882] A. That is right.

Q. What is your position with the Knox Motor Service?

A. General manager.

Q. Now, do you originate shipments on your line which are delivered to you for transportation service to points in Iowa along U. S. highway 6?

A. We do.

Q. And in what size and volume do you have those shipments?

A. Mostly the smaller size. We have an occasional 10,000

pounds and up, but most of the shipments are of the oh, 2 or 3 hundred up to 2,000 class.

Q. Now, I take it that of necessity you interline your freight with companies having authority serve these Iowa points that are located west of Davenport and Bettendorf, Iowa?

A. Yes, sir.

Q. Do you have a more or less continuous flow of traffic from that territory which you serve, being Milwaukee, Wis., Rockford and Freeport, Ill., and to some extent the commercial zone at Chicago into Iowa points?

A. We do.

Q. Now, what has been your experience in times past with respect to interline connections for interior Iowa points on or adjacent to U. S. highway 6, particularly with respect to shipments say of 500, 600, 800 pounds or less?

A. There is only one carrier that would consistently take [fol. 883] them. That is the Rock Island Motor Transit Company.

Q. What has been your experience in tendering shipments to concerns such as Watson Bros., Knaus, Brady, Merchants, Des Moines Transportation, and other carriers operating in that general territory?

A. We interline daily, I think, with every one of those carriers that you have mentioned. We have had difficulty, however, getting rid of those small points that are in or around U. S. highway 6 to anybody but the Rock Island Motor Transit Company.

Q. When you refer to the smaller points, do you refer to the points of, say, with a population of 2,000 persons or less outside of points like Iowa City, Newton, and Des Moines?

A. I am not familiar with the population, but from the knowledge of the points, it is where these small shipments do go. The larger points that I do know, we do not have any difficulty. Anybody is very happy to take any of those shipments

Q. What points do you refer to as those larger points to which you have no difficulty?

A. Well, Iowa City, Muscatine, Des Moines, Cedar Rapids. There are some others. I don't recall the others.

offhand, but it is the points of that size where we have no difficulty at all.

Q. Now, your organization is a member of the American Trucking Association, is it not?

A. It is.

Q. What type and character of traffic do you have in- [fol. 884] volved at these smaller intermediate points to which you say that you have had difficulty in inducing other carriers other than the Rock Island Motor Transit Company to handle them?

A. We seem to have quite a lot of repair parts for implements out of J. I. Case Company. We handle a lot of medicine out of Rawleigh Company at Freeport. Hardware from Sterling, Ill., and hardware from Milwaukee, Wis. Small tool industry out of Rockford ships to those, but I think that the most important part would come down to the medicine and also the agricultural implement parts. When the parts are shipped, in most cases they are emergency shipments, more or less, and we have go to give a service on that particular commodity.

Q. Your implement parts, those shipments are made to the local dealer located in the particular small town to which they are destined, I take it, are they not?

A. Yes. I think there are some that go right direct to the party who owns the implement that is down. We can't always tell from the name whether it is a dealer or not.

Q. What has been your experience with respect to interline service performed by the Rock Island Motor Transit Company to these points on or adjacent to U. S. highway 6 between Davenport, Iowa, and Omaha, Nebr.?

A. No complaint has ever come to my attention and I would be advised of any complaints of service involving shipments that we do handle.

[fol. 885] Q. Have you ever had any difficulty in the Rock Island Motor Transit Company declining to handle it or delaying such shipments?

A. No, sir; none at all.

Q. About how many motor trucks does the Knox Motor Freight Service operate, Mr. Creagan?

A. We have over 200 trucks, tractors, and trailers.

Q. And about what is your personnel, about how many employees?

A. About 160.

Q. And do you maintain a daily service from Milwaukee and Rockford into the Tri Cities or Quad Cities?

A. We try to maintain a daily overnight service between any two points that we serve.

Q. And the principal points at which you have interline freight are Rockford, Milwaukee, and Freeport, Ill., to the Iowa territory?

A. Rockford rather than Freeport for the points.

Q. For your agricultural implements, but your Rawleigh products originate at Freeport?

A. That is correct.

Q. I would like to ask you this question, Mr. Creagan. Let me ask it in this way: You are aware, I suppose, that the Rock Island Motor Transit Company is a subsidiary of the Rock Island Railroad Company, are you not?

A. That is correct.

[fol. 886] Q. And in your relations and the relations of your company, has the Rock Island Motor Transit Company been operated as a motor carrier so far as you have observed? Has there been any difference in the operation of the Motor Transit Company as you have observed it by reason of that ownership by the Rock Island Railroad?

A. Our affiliation with them has been strictly on a motor carrier basis. We have not seen or heard of the parent company.

Mr. Howland: You may cross-examine.

Mr. Fowler: No questions.

Exam. Carpenter: You are excused.

(Witness excused.)

ARTHUR WEE was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you state your name, place of residence, and occupation, please?

A. Arthur Wee.

Q. Do you live at Grinnell, Iowa?

A. At Grinnell, Iowa.

Q. And what is your occupation?

A. I am a partner in a tire distributor store, home appliances, and some hardware.

Q. Home appliances and some hardware?

A. Some hardware; that is right.

[fol. 887] Q. What is the name of your place of business?

A. McKey and Wee.

Q. That is a locally owned and operated store, is it not?

A. That is right.

Q. Now, what line of tires do you distribute?

A. Firestone.

Q. What line of appliances?

A. Mostly Firestone. We do have some other lines in there.

Q. Now, when you talk about appliances, do you mean refrigerators, deepfreezes?

A. That is right.

Q. Television sets?

A. No television.

Q. Radio?

A. Yes; and small traffic appliances such as toasters and ironers.

Q. You are outside the television range down there, aren't you?

A. No; very much in it.

Q. Where do you get television from down there?

A. Ames. Is that right, Bill? He sells them, I don't.

Q. What line of hardware do you handle?

A. It has a Firestone line, whatever is available to us.

Q. That is a general line that the average hardware store handles, is that right?

A. That is right.

Q. Nails?

[fol. 888] A. No.

Q. You don't handle nails, hammers?

A. That is right; hammers, tools, and so forth.

Q. Where do you get your shipments which have out-of-State origins?

A. Minneapolis. Some out of Louisville, Ky.

Q. I assume your tires are from distributing points in the State, are they not?

A. How is that?

Q. Do you have any out-of-State origin for your tires or are they all redistributed from within the State?

A. That is usually out of Des Moines.

Q. Your appliances and hardware are from those out-of-State points, is that right?

A. That is right.

Q. With what frequency do you get shipments in from these out-of-State points of Minneapolis and Louisville, Ky.?

A. I would say on the average of once a week.

Q. What transportation company has been bringing those shipments to Grinnell to your place of business?

A. We have specified the Rock Island Motor Transit Company and they have been bringing them.

Q. Why have you specified the Rock Island Motor Transit Company?

A. There would be only one reason, and that is service.

Q. What are the size of shipments which you ordinarily have?

[fol. 889] A. Oh, they would range from 200 pounds to 2,500.

Q. Do you have occasion to have shipments in excess of 5,000 pounds?

A. Very seldom.

Q. Now, you say you have specified the Rock Island Motor Transit Company because of the service. Do you know of any other carrier, motor carrier, that gives a daily service in and out of Grinnell for small shipments such as you have?

A. In interstate or intrastate?

Q. Interstate.

A. Not to my knowledge. I suppose there are some. Western, I think, comes through there. I don't know whether they gives daily service or not.

Q. I am asking if you know of any other carrier that gives a daily service.

A. I do not.

Q. What has been the character of the service the Rock Island Motor Transit Company has been giving you at Grinnell? Has it been satisfactory?

A. It has been very satisfactory and especially in handling claims.

Q. Have you had any unsatisfactory experience with other companies on claims?

A. I have.

Q. Has that been recently?

[fol. 890] A. Well, yes. Can I elaborate a little on that?

Q. Sure; go ahead.

A. We were getting our shipments out of the Firestone warehouse in Chicago, and that was handled by another carrier. The service was very unsatisfactory. At that time we were getting a lot of breakage and a lot of claims to be filed, and we had one that took us over 6 months to get handled and finally had to resort to the writing of a letter to our warehouse manager and cross-referencing it to the transportation company, stating that we would not accept any further shipments by this particular carrier.

Q. Is that carrier still operating through Grinnell?

A. He is.

Q. Now, what effect would it have upon your company's business if the Rock Island Motor Transit Company either terminated its operation in and out of Grinnell or materially curtailed their operation?

A. Well, I think that it would affect us in this way, that on emergency shipments out of Des Moines, naturally we don't carry everything in our store, and there are some things we do sell, we call in for, and the customer is willing to wait a day or so, and that service comes in very handy then.

Q. How about your shipments from Minneapolis, do you know of any carrier that would give you service, same type of service the Rock Island Motor Transit Company has been giving you?

[fol. 891] A. I don't know of any that would. We haven't been solicited with the exception of McCoy Freight Lines and that was just recently.

Q. Do you know whether McCoy Freight Line provides a daily service in and out of Grinnell?

A. They do not have a terminal there.

Q. Do you know of any other motor carrier that has a terminal and a local service other than the Rock Island Motor Transit in Grinnell?

A. There is Pasch Transfer there. I think he works for everybody.

Q. Now, you say that you have about one shipment a week come into Grinnell by the Rock Island Motor Transit Company from out-of-State points. What percentage would you say your merchandise that comes from out-of-State points is to your whole merchandise?

A. The total volume?

Q. Yes.

A. Oh, I would say about 45 percent of our total volume.

Q. Now, these shipments that you have come in, are they quantity shipments, where you get a collection of different items and have them brought in at one time from Minneapolis?

A. That all comes out of the same warehouse in one shipment.

Q. Of course, you are a licensed or franchise store, Firestone store dealer there?

[fol. 892] A. We are independent from the company.

Q. No, but I mean do you have a franchise?

A. We have a franchise; yes.

Q. You handle Firestone products?

A. That is right.

Q. Then when you get a shipment, I assume you get a volume shipment with many different articles from the Firestone warehouse in Minneapolis——

A. That's right.

Q. —is that correct? So that is the reason you have shipments about once a week instead of more frequently?

A. That is right.

Mr. Howland: I believe that is all. You may cross-examine.

Exam. Carpenter: Mr. Fowler.

Cross-examination.

By Mr. Fowler:

Q. As I understand it, Mr. Wee, the McCoy Freight Line, Western Freight Line, Des Moines Transportation Company, and other carriers of that type do serve Grinnell, Iowa?

A. I don't believe McCoy does. Western I know does.

Q. The others do, do they, Mr. Wee?

A. I am not familiar with that. I do not know. The only reason I mentioned that was because their solicitor was in and stated that they were planning on opening a terminal there.

Q. Then you don't know——

[fol. 893] A. I don't know.

Q. —at the present time just what the service of these other carriers is?

A. That's right.

Q. You have used the Rock Island service, found it satisfactory, and haven't look around for any other service?

A. That is right.

Q. Now, the Rock Island Motor Transit pickup truck and delivery truck, does that bring you your rail freight as well as your motor transit freight?

A. It does.

Q. It is all handled by the same pickup truck?

A. By the same pickup truck.

Q. So no matter whether you bill it rail going on the Rock Island Railroad or bill it motor truck by Rock Island Motor Transit, it is all handled by the same pickup-and-delivery truck?

A. At our store, it is; yes.

Q. Now, with respect to claims, do you contact the freight agent there at Grinnell to make your claims?

A. That is right.

Q. And do you settle them right there with him?

A. No.

Q. What is your procedure now on claims?

A. The first thing is, he comes up and inspects the damage.

[fol. 894] Q. He inspects the damage for the railroad claims as well as the transit claims?

A. No; there are two of them.

Q. Two of them?

A. Two of them. There is a rail agent and a motor freight agent.

Q. A rail agent and a motor freight agent. You have a claim against the railroad, you talk to the rail agent?

A. That's right.

Q. And if you have a claim against the Rock Island Motor Transit Company, you talk to the other fellow, is that correct?

A. That's right; yes.

Q. Do you do some rail shipping?

A. We have some; yes.

Q. In other words, then, on certain traffic you choose to use rail service and on other traffic you use motor truck service?

A. Yes.

Q. But it is all picked up and delivered to you by the same——

A. Same truck.

Q. —same pickup-and-delivery truck?

A. The same. Would it be in line to mention something about a shipment over rail?

Q. Just a minute. You are supposed to answer questions.

A. Okay. All right.

Mr. Nolan: You will be given the opportunity.

Mr. Fowler: Yes; Mr. Nolan will give you a chance.

[fol. 895] That is all.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Nolan:

Q. Now, Mr. Wee, you say that you have had some shipments come in on rail billing by the Rock Island Railroad handled by the Rock Island Motor Transit Company?

A. Now, as incoming shipments, most of our stuff comes

by motor freight. It is outgoing shipments I was speaking of.

Q. Do you specify some shipments to go out by rail billing rather than motor transit billing?

A. Occasionally.

Q. You were going to say something in response to something Mr. Fowler asked you about. What did you have to say?

A. We shipped some tires by Rock Island Railroad from Grinnell to Kansas City on January 22. It was a pair of tractor tires to be retreaded by the Firestone retread shop in Kansas City. I haven't got them back yet. Ordinarily, the procedure is it takes about 3 weeks to 30 days for them to process them and get them back that distance.

We allowed 30 days and didn't think anything of it. Finally, the farmer got a little fire under the collar because he was figuring on getting in the field one of these days.

I contacted the agent at Grinnell and he sent out tracers and he finally reported to me three of them had got to Kansas City. One of them was still in Des Moines. Why, I don't know.

[fol. 896] So we assumed, well, they will be back in a week or so now. Nothing happened. I finally called the retread shop in Kansas City long distance and he said he still hadn't received them, and of course he did mention that they did have a truck strike down there. I told him the shipment was Rock Island Railroad. He didn't know whether that would affect it or not, but I suggested he take his pickup truck and go down to the freight depot and see if he couldn't find them.

He went down there and and wired me the next day he did have the tires, the three of them, but to date I haven't got them back yet.

Q. Now, let me ask you, why did you ship those by railroad rather than truck?

A. Well, I can't say that there was any particular reason outside of the fact that probably the rail services Kansas City and I didn't know whether the truck did or not. They are both pretty good fellows over there.

Q. Pass the business around, is that right? Now, what percentage of your freight would you say comes into your

store by Rock Island truck that is rail-billed freight as against motor-truck-billed freight?

A. Oh, I would say 90 percent of it comes motor truck.

Q. Motor truck-billed?

A. Yes.

Q. Have you ever been solicited by the motor truck [fol. 897] agent there of the Rock Island Motor Transit Company to do any shipping by rail billing?

A. Yes.

Q. What?

A. You say the railroad agent?

Q. No.

Exam. Carpenter: Read the question.

(Question read.)

A. No.

By Mr. Nolan:

Q. He wants the truck business?

A. Apparently he does.

Mr. Nolan: That is all.

Re-cross-examination.

By Mr. Fowler:

Q. The shipments you spoke of to Kansas City, Mr. Wee, in your investigation did you learn that that shipment did leave Grinnell by truck rather than by rail car?

A. I don't know how it left Grinnell.

Q. In other words, it could have——

A. I turned the shipment over to the——

Q. Rock Island Railroad?

A. Rock Island Railroad. What they do with it I don't know.

Q. You had some unsatisfactory experience with that shipment?

A. I certainly did.

Q. You didn't ascertain whether or not that was actually

handled on truck rather than rail car?

[fol. 898] A. No; I didn't.

Q. You don't know about that?

A. No; I don't know about that.

Q. You know the Rock Island Railroad has truck service to Kansas City, don't you?

A. No; I didn't know that.

Exam. Carpenter: Any redirect? You are excused.

(Witness excused.)

M. F. ZIMMERMAN was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. State your name, place of residence, and occupation, please.

A. M. F. Zimmerman, 1212 E Street, Grinnell, Iowa.

Q. What is your business?

A. Hardware, auto supplies, housewares, electrical, merchandise of that type.

Q. What is the name of your store at Grinnell?

A. Coast to Coast store.

Q. That is owned by you, as I understand it, but it is a franchise store?

A. That is right.

Q. You operate under the trade name of Coast to Coast and have your buying connections with the Coast to Coast national organization, is that correct?

[fol. 899] A. That is correct; yes, sir.

Q. You say you handle hardware and appliances and things of that character?

A. Yes, sir.

Q. Where is the warehouse or wholesale outlet for your supplies?

A. Minneapolis.

Q. Do you have shipments coming from any other points other than Minneapolis?

A. Oh, yes. I have some out of Chicago, some out of Omaha, some out of Des Moines, some out of Davenport.

Q. With what regularity do you get shipments from out-of-State points into your store?

A. It would run about at least three times a week.

Q. What percentage of your inbound shipments would you say your out-of-State shipments are?

A. Oh, the out-of-State would be at least 90 percent.

Q. Now, what are the size of the shipments from these out-of-State points which you have mentioned?

A. They will run from around 500 pounds to 1,200 or 1,400 pounds, along in there somewhere.

Q. What transportation agency has been handling those shipments and bringing those shipments from these out-of-State points to your place of business in Grinnell?

A. Rock Island Motor Transit in the last 5 years.

Q. Has that been at your request or by the shipper's request?

[fol. 900] A. It has been by demand. The shipper was sending it other ways, and it was getting so rough we had to change.

Q. You mean the demand was made by you to route it by Rock Island Motor Transit?

A. I demanded they route it.

Q. What experience have you had with other carriers bringing merchandise to your store at Grinnell from out-of-State points other than Rock Island Motor Transit?

A. Well, I haven't had much in the last 5 years. It has been intermittent, somebody makes a mistake and sends it out the wrong way, but actually I don't think I would be in business if I had to continue like I was before. Too much of the merchandise was broken and it was too slow. The price we sell merchandise for, we have to keep it moving. We can't carry a big stock so I have to keep it on the road and keep selling it.

Q. How is the service of the Rock Island Motor Transit Company since you have specified and directed that your merchandise come in on that line?

A. In that 5 years I don't think that we have had any trouble except a few claims.

Q. What you would normally expect?

A. Yes. Less than normal, because it has been few. I don't like to make claims, but when I do I like to have my money if they are just claims.

Q. How about the time in transit from these out-of-State [fol. 901] points by the Rock Island Motor Transit Company in comparison with the experience you had 5 years or more ago with other carriers?

A. Well, it would— Some of them were sent by rail and of course they would run up to almost 2 weeks on a direct line at that, and usually it runs 3 or 4 days—I believe I get overnight sometimes out of Minneapolis and other times it would be the following day.

Q. By the Rock Island Motor Transit?

A. By the Rock Island Motor Transit; that is right.

Q. Do you know of any other company that provides a daily service into Grinnell from these out-of-State points of Minneapolis, Chicago, and other points where you receive shipments other than Rock Island Motor Transit?

A. No; I couldn't say that I do. There was one delivered in there one time, but how many times it was handled I don't know. It was about 50 pounds, and it was $1.70, so it might be transferred a time or two. I don't know whether it was direct.

Q. What effect would the stopping of the service by the Rock Island Motor Transit Company or a substantial decrease in the character of the service of that company have upon your business?

A. Well, it would have a decided effect on the service and of course on the efficient operation because I think there is no other way. It is my belief there is no other way to get that merchandise rolling as it does on Rock Island Motor Transit.

[fol. 902] Q. As I understand it, your orders are relatively small; they are not volume shipments, is that right?

A. No; I keep them moving, that is correct.

Q. You attempt to operate upon as small an inventory as possible but still give your customers good service, is that correct?

A. That is correct.

Q. Do you have competitors in Grinnell and other adjoining communities?

A. I believe so. You have got several of them sitting in here.

Mr. Nolan: I think that is all. Thank you.

Mr. Fowler: No cross-examination.

Exam. Carpenter: You are excused.

(Witness excused.)

EARL MATHEWS was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, please?

A. My name is Earl Mathews of the Mathews Drug at Grinnell, Iowa.

Q. And you are the proprietor, or one of the proprietors, of the Mathews Drug store at Grinnell?

A. I am the proprietor.

Q. How long have you been in business there, Mr. Mathews?

A. 25 years.

Q. Do you have any particular brand or line of drugs or [fol. 903] drugstore merchandise that you handle?

A. We are the Rexall drug store.

Q. Rexall dealer?

A. Yes.

Q. In Grinnell.

A. That is right.

Q. Now, from what territory do you have your Rexall drugs and drug products supplied to you?

A. That all comes out of Chicago.

Q. About how frequently do you have occasion to have shipments of Rexall merchandise sent to you?

A. Well, Rexall, at least once a week. Sometimes twice a week. This other Chicago——

Q. I take it that you handle in your store lines of merchandise other than that bearing the Rexall brand——

A. Yes.

Q. —or which you buy from the Rexall company?

A. Oh, yes; we do.

Q. Just what are those lines, generally? Are they drug lines or——

A. Well, Abbott Laboratories in Chicago, Parke-Davis, Eastman Kodak.

Q. Do you have occasion to get shipments from those concerns from Chicago?

A. Oh, yes. Of course, a lot of our drugs come out by [fol. 904] parcel post or express, but the larger shipments by Rock Island Motor Transit.

Q. Are there any other points outside the State of Iowa from which you get shipments other than Chicago?

A. Well, yes. We get a few shipments from New York in the way of toiletries.

Q. Now, about how often would you have occasion to get these shipments from out-of-State points other than the Rexall lines?

A. Not too often. Probably once every 2 weeks or 3 weeks.

Q. But there is a regular recurring shipment being made into your store at Grinnell from this out-of-State territory to the extent——

A. Yes.

Q. —you have described. Now, what carrier has been handling those shipments for you?

A. Rock Island Motor Transit.

Q. And that is true both of your Rexall shipments as well as your shipments from other places?

A. Yes.

Q. Mr. Mathews, what has been the character of the service that you have received from the Rock Island Motor Transit on your inbound shipments?

A. Well, it has been about perfect. They handle the merchandise very carefully and claims are adjusted very promptly.

Q. Have you had service by other carriers on some of [fol. 905] your inbound shipments in the last few years or months?

A. Oh, yes; some. You mentioned out-of-State. We do occasionally get a shipment by the Iowa-Nebraska Transportation Company from Lincoln.

A. We get metal tubing, steel tubing.

Q. In what quantity?

A. We will buy in quantities, in the 1-inch tubing, quan-
[fol. 920] tities of 10,000 to 20,000 feet. We have an order now at St. Louis for 20,000 feet.

Q. What will that be in weight, approximately?

A. Oh, I would say that would be approximately 15,000 pounds in the gauge we *guy*.

Q. That has been delivered to you recently by some truck that is supplied by the supplier?

A. The last truckload which we had in came on the suppliers own truck.

Q. Now, other shipments of less volume than that are handled by some other carrier and then interchanged up in this territory with a carrier that serves Grinnell?

A. That is right.

Q. Have you ever had any such shipments delivered to you by Iowa-Nebraska Transportation Company?

A. Yes; I think we have.

Q. How about Keeshin Motor Express Co., Inc.?

A. I am unable to answer that one.

Q. How about Des Moines Transportation Company, Inc.?

A. No; I don't think so unless they might be delivered to Pasch and Pasch delivers them to us and makes the collection. The thing I remember; who gets the check.

Q. As a matter of fact, Mr. Pasch runs a transfer company there, as I understand it.

A. That is right.

[fol. 921] Q. Cartage company?

A. Yes.

Q. And he does the cartage work for these carriers I have just mentioned?

A. Well, I assume that he does.

Q. Now, how about Western Transportation Company?

A. I am not acquainted with them.

Q. But your dealings with these other carriers has been largely through the Pasch cartage company, is that correct?

A. Pretty largely.

A. Yes. We pay the bill.

Q. Can you designate the routing?

A. Yes, sir.

Q. Can you tell the steel company by what truck line that is supposed to move?

A. We can.

Q. Do you now?

A. Occasionally.

Q. Do you specify American Transit?

A. No, sir.

Q. What company do you specify?

[fol. 926] A. I would specify Rock Island Motor Transit if they could handle it.

Q. They can't handle it now. I am talking about now. How are you getting it?

A. I would say on an order of that kind, ship best and quickest way.

Q. That is the situation now?

A. With our steel from—let's be specific—from Inland Steel, yes, sir.

Q. That is being handled by American Transit?

A. Some of it is and some by Rock Island Railroad.

Q. Now, let's talk about the truckloads in excess of 5,000 pounds, if you will, please.

A. All right.

Q. How is that being handled at the present time, by what carrier?

A. Let me answer it—I wouldn't attempt to go back through last year or the year before and tell you.

Q. I am not asking you to do that.

A. But the last shipment that came in by truck from Indiana Harbor came in by American Transit.

Q. When was that shipment received by you, approximately?

A. Oh, 2 weeks ago.

Q. When did you receive a shipment prior to that?

A. Well, I will answer you this way. Since the beginning [fol. 927] of 1952, we have had approximately 73 tons of steel of one kind or another out of Inland Steel Company mill to Kellogg.

Q. And that has been handled by this American Transit?

A. It has been handled by truck lines. The last particular shipment was American Transit, but I was away from the office at the time some of the others were coming in.

Mr. Fowler: That is all.
Exam. Carpenter: Any redirect?
Mr. Howland: Just a minute.

Redirect examination.

By Mr. Howland:

Q. Now, these shipments that have come in, these American Transit company shipments, do they move into your plant by American Transit company truck or by some other trucks?

A. Well, I can't answer you because those particular shipments are delivered to the Midwest at Kellogg and we have an arrangement with them to pay the freight bill and we in turn pay them the freight. It just so happens I have in mind paying a rather sizable freight bill last week.

Q. Do you know what the practice of the American Transit company is as to issuing billing and then having the transportation service actually performed by some livestock hauler who is in Chicago and who is empty and wants to get back to Iowa points?

Mr. Fowler: Just a minute. That is objected to as an improper question. It is immaterial. It is leading and suggestive.

[fol. 928] Mr. Howland: I think maybe it is just leading. I think maybe I had better withdraw it.

Mr. Fowler: I think so. Furthermore, the witness just said he didn't know.

By Mr. Howland:

Q. Are you familiar with the practice followed by the American Transit company?

A. No, sir.

Q. Does the Iowa-Nebraska Transportation Company render a regular service on shipments moving into Grinnell from the east or is that from——

A. I don't know.

Q. You don't know as to that?

A. I don't know.

Q. Does the Rock Island Motor Transit Company maintain a pickup-and-delivery service and their own terminal agent in Grinnell?

A. Yes, sir.

Q. And that, I take it, is an advantage in connection with the handling, of tracing of shipments or adjustments and matters of that sort?

A. Very much so; yes, sir.

Q. Any other motor freight company that has its own terminal agent in Grinnell?

A. Well, yes. This Jack Pasch distributes for other companies.

Q. He is the local transfer and drayman?

A. That is right.

Q. And he distributes for a number of companies?

A. I think so; yes.

Q. I would like to ask you some questions about the town [fol. 906] of Grinnell. First, about the population of the town; about what is the population?

A. About 7,000 by the last census.

Q. And U. S. highway No. 6 goes through the city of Grinnell just about 2½ blocks north of the business center of the town?

A. That is right.

Q. What do you have at Grinnell in the way of manufacturing or industries?

A. Well, we have the Ahrens Manufacturing Company over here, and the glove factory, shoe factory, and of course the Cargill and DeKalb.

Q. One is the seed corn——

A. Yes.

Q. —and the other is the feed?

A. And the Donaldson Corporation just came in.

Q. What is their line?

A. They are going to manufacture air filters, and so forth. The parent company is in St. Paul or Minneapolis.

Q. And of course your largest enterprise in Grinnell is the college?

A. I would presume so, the largest payroll.

Q. Ouside of the concerns you have mentioned and the college, the establishments that are in business there are the usual retail outlets and service trades serving a farm community of that size?

[fol. 907] A. That is right.

Q. Now, Mr. Mathews, in your judgment would the elimination or substantial reduction in the service presently afforded to Grinnell by the Rock Island Motor Transit Company have any effect on your business or on the community?

A. Well, it certainly would have an effect on our business, I think, because of our quick service. In other words, we are in the drug business and we are in a hurry for our merchandise. Can I elaborate on that a little?

Q. Yes; go ahead.

A. I have been out to the Rexall warehouse in Chicago. They pick up there in the late afternoon and we have it in our store the next morning. We can mail an order at Sunday noon, they get the order Monday morning, and we have the merchandise—this doesn't always happen—we can have the merchandise Tuesday morning just like express only a lot cheaper.

Q. You couldn't get any better service than that by express shipments?

A. Oh, no.

Q. Of course, I take it that there are occasions when you get a second-morning delivery?

A. Oh, yes.

Q. Or something of that sort, but generally speaking your service has been prompt and satisfactory?

A. Very.

[fol. 908] Q. Do you feel that as far as your business is concerned that there is a necessity for a continuation of the Rock Island Motor Transit Company service to Grinnell?

A. Very much so.

Q. Now, you don't, I take it, have occasion to make shipments over 5,000 pounds in weight?

A. Yes. We got in a shipment 2 or 3 weeks ago of about 7,000 pounds.

Q. 7,000 pounds?

A. Yes.

Q. That would be the exception, I suppose, rather than a rule?

A. Oh, yes. That is twice a year, I would say. It was our 1-cent sale.

Q. That is in connection with your 1-cent sale shipment?

A. That is right.

Mr. Howland: I think that is all.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Fowler:

Q. How did you handle this 7,000-pound shipment?

A. Well, that came in almost a solid truckload.

Q. By what company?

A. Rock Island Motor Transit.

Q. Did they break it down into two billings or did they handle the 7,000 pounds for you all in one shipment?

[fol. 999] A. No; one shipment.

Mr. Fowler: That is all.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Howland:

Q. Just a minute, Mr. Mathews. Was it all on one bill or do you recall whether there was more than one freight bill on that shipment?

A. Well, I am not exactly sure on the weight. I think it was around 7,000 pounds, around 270 cartons. It was all on one freight bill, however.

Q. And that was handled as a Rock Island Motor Transit shipment?

A. Yes.

Mr. Howland: All right. Thank you.

(Witness excused.)

LOUIS V. PHELPS was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, please?

A. Louis V. Phelps.

Q. You live in Grinnell, Iowa, Mr. Phelps?

A. Yes, sir.

Q. What is your business?

A. At the present time, I am the general manager for the Ahrens Manufacturing Company, playground equipment.

Q. The Ahrens Manufacturing Company has a plant at [fol. 910] Grinnell, Iowa, and manufactures and distributes a line of playground equipment, as I understand it?

A. That is right.

Q. Just what are the activities of the Ahrens Manufacturing Company; that is, is it a matter of assembling or do you manufacture your equipment?

A. Well, here is the way we operate at the present time. In Grinnell we assemble the steel and bearings and the various parts, tubing, for the making— Our endeavors are centered largely on what we call a Miracle Whirl, which is a tilted type of whirl, all steel, and we buy our steel in large quantities and sell it out in smaller units, if you know what I mean.

We will buy steel by the carload and our shipments go out—the small whirl weighs 260 pounds and the large one, depending on the type, from 650 to 850 pounds.

Q. On your inbound shipments of materials, do those customarily come in in carload quantities?

A. The floor plate that we use for the platform and the tubing come in either in carload quantities or on big trucks, on the semitrailers.

Q. From what points do you get those shipments?

A. We buy our plates from Inland Steel at Gary or Indiana Harbor, for the most part, and our bearings come out of Chicago for the most part. Our tubing for the hand rail oh, some of it originates at Clinton, Iowa, but most of it at St. Louis, Mo.

[fol. 911] Q. By what carriers have you been shipping your inbound materials into Grinnell?

A. I should elaborate a little on our plan of operation. The Midwest Stamping Company at Kellogg does—we furnish them dies and they do our stamping and cutting and forming at Kellogg, so that the floor plate, the platform material, comes in either by rail or by truck line, depending on the size of the shipment. We like to get them in carload lots, but sometimes, due to the present Government rationing, we can't ship enough at one time for a carload so it will come out by the bigger trucks.

The tubing will come in in shipments of 8 to 10 thousand pounds and that is usually, practically always, by truck.

Q. Your outbound shipments are made in about what quantity or weight?

A. That will depend entirely on the order. We sell to parks, school boards, drive-in theaters and we have some few dealers over the country. The bulk of our shipments will go out in one or two whirls at a time and the weight on those shipments will be, on a small size, 260 pounds and on the large size 850 pounds.

Q. Do you on occasion make shipments to dealers where you have a number of units shipped at one time?

A. We have just gone through an experience with a dealer in Cleveland, Ohio, in which we had great difficulty in getting anyone out of Grinnell or the vicinity to handle it. The shipment was 50 whirls, and the weight of that [fol. 912] would be in the neighborhood of 16 or 17 tons.

We could find no one, no trucking agent or trucking concern, in Grinnell that could handle that shipment satisfactorily for us. It had to go out on the C. O. D. basis, and we finally, by telephoning, got another concern, an out-of-town concern, to come in and pick it up and take it and deliver it, but we had almost as much trouble collecting the C. O. D. as we had in making the original sale.

Q. Had you tendered that shipment, or would you have tendered that shipment but for the 5,000-pound restriction to the Rock Island Motor Transit?

A. We tried to get Rock Island Motor Transit to take the shipment, but they couldn't under the existing rules

and regulations. They explained to us they couldn't take it.

Q. Was the carrier that handled it one of the carriers that operates through Grinnell on highway 6?

A. I am not sure that they operate on highway 6. It was the Keeshin Motor company of Marshalltown and Chicago.

Q. Keeshin Motor Express?

A. Yes. The nearest office, I believe, was Marshalltown.

Q. Now, with respect to shipments inbound, particularly this tubing and matters of that sort, that is shipped in less-than-truckload quantities, I take it?

A. Yes, sir. Less than semitrailers.

Q. Yes. Are those shipments made to Kellogg?

[fol. 913] A. No. Those shipments come direct to Grinnell and usually out of St. Louis, and we have had considerable difficulty in getting prompt service through the truck lines that operate out of St. Louis to our vicinity. For instance, we have had shipments lay on the docks here in Des Moines 10 days. They don't seem to make the correct connection. They don't have the——

Q. In other words, there have been delays on shipments from St. Louis to Grinnell?

A. That is right.

Q. And on those shipments, do those usually run in the neighborhood of 5,000 pounds or——

A. Well, I will give you an illustration. I spent the first half hour this morning trying to get a small shipment out of St. Louis, a shipment that will weigh at least a thousand pounds. We need it right now. It is heavy tubing for the center post, and I don't know how it will be shipped.

Ordinarily, they give the shipment down there to the Robertson Trucking Company and what their connections are I don't know. Something like that will probably be delivered by this Jack Pasch that Mr. Mathews mentioned a while ago.

Q. You are not familiar with the exact routing that might be followed?

A. No, sir; I am not, but I know it is not satisfactory.

Q. Now, the Rock Island Motor Transit Company has a full-time agent in Grinnell and maintains pickup-and-

[fol. 914] delivery service with its own truck or trucks there?

A. They handle practically 90 percent of our outbound shipments in small lots, and we call them usually between 8 and 9 o'clock in the morning to get our rates. A lot of our stuff has to be shipped prepaid and we have to know the rate before we make the bill of lading, and by 3:30 or 4 o'clock every afternoon they will be right on the job to pick that shipment up and they give us excellent delivery. They handle the shipments well, and they give us prompt delivery to—they arrange to give us prompt delivery to every State in the Uniion. We sell all over the United States.

Q. Is there any other carrier that you know of that serves Grinnell that renders a service that is equal to that performed by the Rock Island Motor Transit Company?

A. No; I don't think so, because they don't maintain—this may be the reason, that I don't know about—there is no office there you can contact and I wouldn't know if I was to send out a shipment tomorrow, but, just for instance, the Iowa-Nebraska line, I wouldn't know where to contact them, how to get in touch with them.

Q. Does Pasch handle Iowa-Nebraska shipments?

A. Well, I don't know for sure. I rather think that he does, but I do know we occasionally pay a freight bill to Iowa-Nebraska direct. That is, they will render the bill to us and we will mail them a check.

[fol. 915] Q. So there doesn't seem to be any particular established practice?

A. No; and one trouble with Pasch's delivery—and I don't say this to criticize Jack because he is a damned hard working man, but in order to make his routes he has to be out so much. Half the time when you call his office you can't get anyone to answer.

Q. Now, what would you say as to whether the elimination or substantial reduction in the quantity of the Rock Island Motor Transit service to interstate points, either inbound or outbound or both, would have any effect on the business of your company?

A. It certainly would because, as I have said before, in my testimony here, 90 percent of our shipments are going

out and have since I have been with this company, which is 3 years now, 1949, 1950, and 1951, 90 percent of our shipments will go, originate, we will give them to the Rock Island Motor Transit and ask them to route them out for us, and rather than see the service eliminated we would very much like to see the service extended so that we could make our bigger shipments by Rock Island Motor Transit.

At the present time we are told they can't accept a shipment of over 5,000 pounds, and occasionally we do want to make—for instance, right now we have a shipment to go to Springfield, Mass., and I haven't any idea what [fol. 916] trucking company we can give that to that would give us the kind of service that Rock Island Motor Transit gives on the smaller shipments.

Q. And if the Rock Island Motor Transit Company were eligible and in a position to handle it, you would ask that company to handle it?

A. That is certainly right.

Q. Some of your shipments, of course, I take it, would move in truckload quantities of 20,000 pounds?

A. That is right. We have a dealer in Phoenix, Ariz., and he takes a truckload every spring and I tell you we have a real battle on our hands to get a trucker who will accept that shipment. If the Rock Island Motor Transit were eligible to take it, they could cross these State lines and do a good job for us, but so many of the—I call them stock truckers, that is primarily what they are in Grinnell. They do a good job in their line, but to send them as far as Arizona or to the east coast, they either have to make special arrangements with the chartering agencies and their insurance companies, or refuse the shipments.

Mr. Howland: I think you may cross-examine.

Cross-examination.

By Mr. Fowler:

Q. As I understand it, on your volume shipments of steel and that type of material that moves out of the Chicago area to Grinnell, that is being presently handled either by rail car or by truckload?

[fol. 917] A. That is right, sir.

Q. And what common carriers by motor vehicle are handling your steel by truckload?

A. What common carriers?

Q. Yes.

A. Is there an American truck line?

Q. American Transit.

A. American Transit, I think they handled the last shipment into Kellogg for us.

Q. But the steel that moves out of Chicago to you does not move over the Rock Island Railroad subsidiary?

A. By subsidiary, you mean the Rock Island Motor Transit Company?

Q. Yes.

A. No, sir.

Q. They don't handle your steel?

A. They couldn't handle it at the present time with their limitation as to load.

Q. The fact is, you are getting service on steel now either by truck or rail, whichever you prefer?

A. Yes, but the Christmas holiday week we had a shipment of something like 30 tons of this steel plate that was held up for 4 or 5 days for lack of trucking facilities out of that area.

By Mr. Howland:

Q. That is out of Chicago?

A. Out of Chicago, Gary or Indiana Harbor. I think it is Indiana Harbor.

[fol. 918] By Mr. Fowler:

Q. On your St. Louis shipments, is that handled by Rock Island Motor Transit all the way from St. Louis to Grinnell?

A. No, sir.

Q. In other words——

A. The shipments at St. Louis usually are over 5,000 pounds.

Q. And they are handled from St. Louis to some point

of interchange with a carrier up in this part of the country, is that the way it is handled?

A. Yes, sir.

Q. Does the Rock Island Motor Transit actually deliver them to you? A. I'm sorry, I can't answer. I don't believe that they do. Occasionally, this company we buy from in St. Louis will use their own truck. The last shipment of 1-inch tubing, it came via their own truck.

Q. Isn't that pretty generally true where you are getting into volume shipments, that they either come by some truckline other than the Rock Island Motor Transit or they come by privately owned trucks of the contract carrier?

A. I don't know that I can answer the question. In our own business, the bulk of the inbound shipments come by either the truck that the company owns or by Rock Island Motor Transit if they are small enough for them to handle. For instance, our bolt orders that come from the east or out of Rock Falls, Ill.

[fol. 919] Q. Let's see if I understand you. I am talking now about volume steel shipments from the Chicago steel district to Grinnell. In some instances those are purchased by you in rail car lots and come by rail car?

A. In some instances.

Q. In other instances they are purchased in truckload volume. They are brought to you by the American Transit Line or some similar carrier?

A. Right.

Q. The Rock Island Railroad nor the Rock Island Motor Transit Company is not handling those for you at the present time?

A. Your statement is not quite correct. Let me answer it this way. The Rock Island Railroad will handle carload shipments. The Rock Island Motor Transit Company, usually the shipments are too large for it to handle.

Q. They are not handling them at the present time?

A. The Rock Island Railroad is; yes.

Q. But the Rock Island Motor Transit is not?

A. That is right.

Q. All right. We have got that straightened out. Now, let's talk about St. Louis. What is it that you get out of St. Louis, Mo.?

Q. Now, on your outbound shipments, as I understand it, you manufacture different playground——

A. Devices.

Q. ——devices you have told us about, and customarily they are sold in smaller lots?

A. That is right, sir.

Q. But occasionally you do have a call for a truckload service to some dealer?

A. That is right.

Q. And the last time you had an occasion for such service, the Rock Island Railroad wouldn't take it or the Rock Island Motor Transit wouldn't take it?

A. I don't believe we offered it to the Rock Island Railroad because it isn't economical— If the Rock Island Railroad handled it, the entire shipment would have to be [fol. 922] bundled or crated. If a motor company handles it, we can bundle these platforms that have to go and we can bundle them one unit at a time or one unit in a bundle and that is handled much more readily than a railroad company in less-than-carload lots.

Q. Now, let me explore that with you a little. The reason in this instance you prefer to use motor common carrier service instead of rail service was for the reason that the rail requirements with respect to loading or packaging are different than those of the motor carrier?

A. That is one reason.

Q. And that is a disadvantage to you as a shipper?

A. Yes, sir.

Q. And it is more expensive?

A. That is right.

Q. So this particular shipment you decided you wanted to move by motor common carrier?

A. Yes, sir.

Q. And you contacted the Rock Island Motor Transit and they told you because of the volume restriction they could not handle it?

A. That is right.

Q. And you then finally, through contacting Keeshin Motor Express Co., Inc., they handled that shipment for you?

A. That is right. That is the shipment that went to Cleveland, Ohio.

[fol. 923] Q. Yes; I understand. Now, had it not been for the weight restriction that has been imposed on the Rock Island Motor Transit, this particular shipment you spoke of could have been billed on rail billing to the Rock Island Railroad but nevertheless handled by truck, couldn't it?

A. I am unable to answer.

Q. Well, let me ask you this question. At the present time the Rock Island Railroad can accept a rail-billed shipment in excess of 5,000 pounds and handle it on rail billing with the actual physical transportation being performed by the motor trucks; were you aware of that?

A. No.

Q. You understand there is no limitation on the volume of freight you can tender to the Rock Island Railroad?

A. That is my understanding.

Q. And you also understand that the Rock Island Railroad can handle any size shipment through its subsidiary, the Rock Island Motor Transit Company by truck——

A. I didn't understand that.

Q. —if it moves at rail billing. You did not know that?

A. I did not understand that.

Mr. Fowler: I believe that is all.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Howland:

Q. Mr. Phelps, as far as these shipments from St. Louis [fol. 924] of tubing material in lots of 10 to 15 thousand pounds weight, if the Rock Island Motor Transit Company could handle that with interline service either from Davenport or from Des Moines, would you be inclined to give that business to the Rock Island Motor Transit Company?

A. On the basis of our experience to date, I certainly would.

Q. Now, on your shipments of steel, if the Rock Island Motor Transit Company were in a position to handle truck-

load volume shipments for you from the Chicago area, either to Grinnell or to Kellogg, would you give that business to the Rock Island Motor Transit Company?

A. We would.

Q. I take it, Mr. Phelps, you aren't informed as to just what the authority of the Rock Island Motor Transit Company would be as far as transporting shipments on rail billing, as to what points they might or might not be able to serve?

A. Apparently I am not.

Q. You never have checked into that in any great detail?

A. No, sir.

Q. If it were a fact that by virtue of the so-called key-points between which railroad shipments couldn't be handled on trucks such as moving through both Des Moines and Omaha, that would affect the service that might be available to you?

Mr. Fowler: That is objected to as immaterial, calling for conjecture.

[fol. 925] Mr. Howland: Withdraw the question.

Exam. Carpenter: By the prior answer, the witness indicates he knows nothing about it.

Mr. Howland: Withdraw the question. I think that is all.

Re-cross-examination.

By Mr. Fowler:

Q. On your quantity steel shipments, you don't control the transportation agency, do you?

Mr. Howland: You mean the routing.

A. On outbound shipments?

By Mr. Fowler:

Q. No; on inbound.

A. I was thinking of outbound from the mill.

Q. I am talking about your inbound shipments.

A. Yes; we can.

Q. Can you designate the routing?

Mr. Howland: All right, that is all.
Mr. Fowler: That is all.
Exam. Carpenter: You are excused.

(Witness excused.)

BILL RITTER was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, please?
A. Bill Ritter.
Q. And you are engaged in business at what point?
A. Grinnell, Iowa.
Q. You make your home there, I take it?
A. That's right.
Q. What is the type of business in which you are engaged?
A. Hardware, appliances, plumbing, and heating.
Q. And what is the name and style under which you are doing business?
A. Ritter's Hardware.
[fol. 929] Q. Now, in what general territory do you secure the merchandise that you sell at your store?
A. Well, there are so many lines there. I have got Chicago shipments. I have Louisville, Ky., shipments. St. Louis shipments. Omaha shipments. Milwaukee, Davenport, and Des Moines.
Q. And you get merchandise in varying amounts inbound from those points to your store?
A. That's right.
Q. What carrier has transported those shipments for you from those origin points or what carriers brought them into Grinnell?
A. I have just about tried them all.
Q. What has been your experience with such shipments with respect to the service of the carriers?
A. Well, I have definitely gone strictly to Rock Island for several reasons. I have had Watson. I have had Nebraska, McCoy, and my experience with some of these

companies who don't have their local agent, a man handling that freight the second or third time—I have had a lot of claims and some of those claims have been turned over to the Interstate Commerce Commission and they have run for as long as a year.

One in particular was from Kohler, Wis., which was a complete bathroom which was broken and that ran for about a year and 3 months. Finally, I did turn it over to the Iowa Retail Hardware Association and I did get action on it, but it ran for well over a year.

[fol. 930] Q. Well, is there any other carrier that serves Grinnell that maintains a full-time terminal agent and their own pickup-and-delivery service?

A. Not to my knowledge; no.

Q. And that is true, is it not, in the case of the Rock Island Motor Transit?

A. That's right. I have found them—If I am busy, they will even check the number of packages and lay it on my desk and come back later and pick up the check or money for the freight, and some of these others, I have even helped the Iowa-Nebraska unload our freight because there is only one driver.

Q. That was delivered direct to your place by the over-the-road unit?

A. That is right.

Q. Mr. Ritter, in the event that the present Rock Island Motor Transit Company service should be eliminated or drastically curtailed or substantially curtailed, would that affect your business in any way?

A. It would from the standpoint I think I would put on my own truck.

Q. Well, do you think that would increase the expense of doing business?

A. Yes; absolutely.

Q. Why do you say you think you would put on your own truck service?

[fol. 931] A. Well, I was contacted about a week ago from a truck line and I tried a shipment which was ordered last Monday out of Des Moines. As a rule, with Rock Island, I will have that, as a rule, not later than Wednesday, and I got the order Friday and it was handled at Des

Moines, it was handled again at Grinnell, and then of course Mr. Pasch brought it to me, and it did get in there Friday and I had the damned breakage again.

Q. Had what?

A. Breakage again. That extra handling.

Q. In other words, has it been your experience that whenever there is extra handling that the probability of loss and damage claims is more?

A. That is right.

Q. More likely to be present. What company handled that shipment?

A. That was Van Wyck.

Q. Now, are you interested in shipments of more than 5,000 pounds in weight?

A. Oh, most of that would be interstate.

Q. Well, I say, are you interested in that?

A. Oh, yes.

Q. Do you have shipments——

A. Oh, yes.

Q. ——upon occasion of more than 5,000 pounds?

A. Yes.

[fol. 932] Q. And in the event that the Rock Island Motor Transit Company were eligible to handle that shipment, would any of that business be routed by Rock Island Motor Transit?

A. It would.

Q. And between what particular points would that——

A. I would say out of Davenport, possibly Council Bluffs.

Q. Outside the State.

A. And outside of Des Moines here, too.

Q. I misunderstood you. You said those shipments are mostly intrastate; that is, within the State?

A. I have them both ways, in and out.

Q. Inside the State and outside the State?

A. That's right; yes.

Q. Referring particularly now to your out-of-State shipments, shipments coming from points outside the State to Grinnell, would you, in the event the Rock Island Motor Transit Company was able to handle those shipments, give them the business?

A. Absolutely.

Q. All right. Do you know of any other truck service at Grinnell that is comparable with the Rock Island Motor Transit service both in time in transit and in the other respects that you have referred to?

A. No.

Mr. Howland: You may cross-examine.

Cross-examination.

[fol. 933] By Mr. Fowler:

Q. As I understand it, you run a retail hardware store in Grinnell?

A. That is right, sir.

Q. From what point outside the State would you have occasion to receive shipments in excess of 2,000 pounds?

A. Oh, it would be Northwestern Barbed Wire at Sterling and Central States Steel at Council Bluffs.

Q. I said outside the State, Mr. Ritter.

A. Well, it would be Kohler, Wis.

Q. How long has it been since you have had a shipment?

A. I got in one last week.

Q. How much did it weigh?

A. Well, sir, I don't know offhand. I never checked the freight bill. I have a bookkeeper that looks after that.

Q. Approximately what?

A. I would say 1,500 or 2,000.

Q. And the Rock Island Motor Transit handled it?

A. They delivered it; yes.

Q. How long has it been since you have had a shipment in excess of 3,000 pounds from a point outside the State?

A. I would say nothing this year.

Q. Haven't had anything for the last 6 months?

A. No.

Q. Haven't had anything for the last year?

A. Not to exceed 3,000.

[fol. 934] Q. Now, the shipments you spoke about that Van Wyck handled for you at Grinnell, was that an interstate shipment? Was that one originated outside the State?

A. No; that originated here at Des Moines.

Q. That was an intrastate shipment you are talking about?

A. That's right.

Q. Now, you apparently have a preference for the Rock Island Motor Transit.

A. I do for the service rendered.

Q. I understand. Now, how long has it been since you used the service of these several other carriers that serve Grinnell?

A. I have had Keeshin.

Q. Does Keeshin serve Grinnell?

A. Better than he did.

Q. You notice some improvement in their service?

A. In filing of claims, yes.

Q. Does Des Moines Transportation serve Grinnell?

A. I don't know, sir. I haven't had anything from them this year.

Q. Do you use them? Does Watson serve Grinnell?

A. I just think on drop shipment. Door to door. I don't believe he has a terminal there.

Q. Doesn't he use the Pasch cartage service, Watson?

A. I don't know.

Q. How about Western Freight Lines?

[fol. 935] A. I can't answer that.

Q. Well, as I understand your testimony, you are satisfied with the Rock Island Motor Transit.

A. I am, sir.

Q. And your shipments almost entirely consist of smaller shipments, less than 2,000 pounds, outside the State?

A. I would say that is right.

Mr. Fowler: That is all.

Exam. Carpenter: Redirect.

Mr. Howland: Nothing further. That is all, thank you.

Exam. Carpenter: You are excused.

(Witness excused.)

Exam. Carpenter: Off the record.

(Discussion off the record.)

Exam. Carpenter: We will recess until 1:45.

(At 12:10 p. m., a recess was taken until 1:45 p. m. of the same day.)

AFTERNOON SESSION

1:45 p. m.

Exam. Carpenter: We will proceed.

CARL W. REED was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, address, and occupation, please?

[fol. 936] A. My name is Carl W. Reed. My home address is Cresco, Iowa, but temporarily I am living here in Des Moines while a member of the Iowa State Commerce Commission. We rotate the chairmanship and this year I am chairman of the commission.

Q. How long have you been an elected member of the Iowa State Commerce Commission?

A. Since January 2, 1941.

Q. Prior to that time, of course, your home had been at Cresco, Iowa, and you practiced law at that point, as I recall, and also served on the district bench in northeastern Iowa?

A. That is correct. I was admitted to practice in 1896, Mr. Howland, so I am old enough to vote.

Q. Judge Reed, are you familiar with the application of the Rock Island Motor Transit Company for a certificate of convenience and necessity to operate as a motor carrier on what we commonly refer to as the White Line and Fredrickson routes in the State of Iowa?

A. Yes; I am.

Q. I believe you testified in the hearing that was held in the latter part of September 1951 at which time the application was restricted to a maximum limitation of 5,000 pounds; that is true, is it not?

A. That is correct; yes, sir.

Q. Just for the record here, will you state the position of the Iowa State Commerce Commission generally with re-
[fol. 937] spect to this application and why you are here and your position with respect to the matter?

Mr. Fowler: Just a moment. May I inquire?

Exam. Carpenter: You may.

By Mr. Fowler:

Q. Are you appearing here as a representative of the Iowa State Commerce Commission?

A. Yes, sir; I am.

Q. And are you appearing here pursuant to some formal authority of the Iowa commission?

A. Well, that depends, Mr. Fowler, on what you call formal. We had a session this morning and I was directed to appear here in support of the application.

Q. That was a session this morning of your commission?

A. That is correct.

Mr. Fowler: All right.

Exam. Carpenter: Proceed. Read the question, or do you recall it?

(Question read.)

A. Well, as I said in response to Mr. Fowler, we had a meeting of the commission this morning and I was directed to appear here in support of the application. Our position in the former hearing was based upon our knowledge of the service that the different truck lines were giving or were not giving and the request from the shippers in various communities asking us to take part in supporting the application.

[fol. 938] I believe Mr. Long, another member of the commission, stated at the beginning of this hearing that the position of the commission had not changed and because of that he felt that he should not sit on this joint board as a joint board so that the matter could go to an examiner as an examiner's case.

Mr. Fowler: For the protection of the record, I move to strike the statement of the witness wherein he is at-

tempting to relate what has been given to him by way of hearsay for the reason that it isn't competent evidence and is hearsay.

Exam. Carpenter: The motion is overruled. Proceed.

By Mr. Howland:

Q. Judge Reed, as a member of the Iowa State Commerce Commission, you are familiar with the general trends in the motor carrier industry with respect to service and with respect to the operation of motor carriers generally, is that true?

A. I think so.

Q. What has been the general trend in recent months and particularly in the last 18 months to 2 years with respect to the service rendered by motor carriers to intermediate points between the larger centers of population in the State, both interstate and intrastate?

Mr. Fowler: That is objected to as immaterial, incompetent.

Exam. Carpenter: The objection is overruled.

A. The experience of our commission, based upon the information that came to us from the shippers and also [fol. 939] from the carriers themselves, has been that the carriers were not interested in the local service.

Mr. Fowler: I move to strike the answer of the witness on the ground that it is hearsay.

Exam. Carpenter: The motion is overruled.

By Mr. Howland:

Q. What have you observed with respect to the position and the ability of motor carriers generally to render service on smaller shipments to intermediate points between the larger centers of population, say points between Iowa City and Des Moines or Iowa City and Newton, Iowa, territories of that kind?

Mr. Fowler: That is objected to on the ground that it is immaterial, calls for an incompetent conclusion and opinion of the witness.

Exam. Carpenter: The motion is overruled.

A. I couldn't say as to what the ability of the carriers was. I only know what the actual service that they are rendering or are not rendering is.

By Mr. Howland:

Q. And what has been the trend with respect to that phase of the matter, Judge?

Mr. Fowler: Same objection.
Exam. Carpenter: Same ruling.

A. The trend in this State in the matters that we have contact with has been that the carriers generally are getting away from the local service and the smaller shipments.

[fol. 940] By Mr. Howland:

Q. In recent months, has the Iowa commission had motor carrier matters before it, both in instances where there have been applications for authority and in instances in which carriers already possessing authority have proposed to curtail the quantity of the service they are performing to the intermediate points?

Mr. Fowler: That is objected to as immaterial and for the reason that if it involves matters pertaining to intrastate operators it is particularly immaterial to this record.
Exam. Carpenter: Objection overruled.
The Witness: Will you read that question, please?

(Question read.)

A. Yes; we have had some matters of that kind and in some instances we have approved the leasing of some of the local service performed by carriers that had service between key points and along the entire line.

By Mr. Howland:

Q. Have you also had some instances in which the question of rates on shipments of less than 1,500 pounds had been—increases above the general level have been sought for such shipments?

Mr. Fowler: Well, just a minute.

Mr. Howland: If there is an objection, I will withdraw that question in that form.

Exam. Carpenter: Was there an objection?

Mr. Fowler: Yes, sir.

[fol. 941] By Mr. Howland:

Q. Judge Reed, I just want to be certain that I fully understand the position that the Iowa commission has taken. What is the commission primarily interested in here with respect to this particular application? In other words, are you particularly supporting the application because it is made by the Rock Island Motor Transit Company or have there been other factors that have motivated you and the other members of the commission in the position which you have taken?

Mr. Fowler: That is objected to as immaterial and hearsay.

Exam. Carpenter: The objection is overruled.

A. The position of the commission has been that it doesn't take any position for or against any particular carrier. In this particular instance, our interest has been to see that service was performed to the various communities.

By Mr. Howland:

Q. And as far as you are advised, do you know of any carrier that is in a position to or is ready, willing, and able to perform the service which has been performed by the applicant along the routes between Davenport and Council Bluffs, Iowa, or Omaha, Nebr., which are covered by this application?

Mr. Fowler: That is objected to as hearsay.

Exam. Carpenter: Objection overruled.

A. Of course, I don't know offhand just what authority every carrier has, but I do not recall of any carrier that has been performing this service that the Rock Island Motor [fol. 942] Transit Company has been performing.

Mr. Howland: I think you may cross-examine.

Exam. Carpenter: Mr. Fowler:

Cross-examination.

By Mr. Fowler:

Q. You stated, Judge Reed, that your interest in this application was to see that service of adequate character was available to these small towns by motor carrier.

A. That is correct.

Q. And it is no concern of yours whether that service is performed by the Rock Island Motor Transit or any other independent motor carrier that may hold interstate authority over this route?

A. No. We do not take any position in supporting one carrier in preference to another.

Q. It is your opinion then that, based upon the reports which apparently have been made to you, that the service to these smaller towns is not presently adequate except for the service of the Rock Island Railroad?

A. I think that is correct, sir.

Q. Now, you don't pretend to have any knowledge as to the carriers that do have authority to operate over this highway?

A. I don't have that offhand.

Q. Or the service which they are actually performing?

A. No.

Q. Or the service which they are willing to perform if the [fol. 943] traffic demands it?

A. Well, the only thing—

Q. Insofar as this application is concerned.

A. We have known of their declining to perform some of that service in the past.

Q. In what respect?

A. In refusing to accept small shipments and refusing to accept shipments to some of the smaller communities.

Q. All right, now, with respect to such towns as Davenport, Moline and Rock Island, Des Moines and Iowa City and Newton and Omaha and towns of that sort, you don't have any opinion that the motor carrier service to those points is not presently adequate, do you?

A. No; I don't think——

Q. In other words, as far as you know, the service to those communities of the larger size has been adequate?

A. We have had no complaints as to the larger size community.

Q. So what you are talking about is that complaints have been made to you as a representative of the shipper with respect to these small towns?

A. That is correct, and of course the small town is a pretty broad term, Mr. Fowler.

Q. That is right, but I think in view of my last question you understand what we are talking about. There has been some testimony here, an abundance of it, to the effect that [fol. 944] in these smaller communities like Walcott, Iowa, Stockton, Iowa, Durant, Iowa, Oxford, Iowa, others of that same character, Victor, for example, that the Rock Island Motor Transit Company is the only carrier that is giving them any regular service into those communities.

A. That is the only carrier that I think of at this time, Mr. Fowler; yes, sir.

Q. It is with respect to that type of service that you have an interest?

A. Yes; and I presume we will say Grinnell or Newton or some place like that wouldn't want to be classed as a small town. We have had complaints as to the service to and from those places to other smaller places.

Q. In other words, are you talking about intrastate or interstate?

A. That is intrastate.

Q. Yes. Of course, you understand that is not involved in this application.

A. I think that is correct.

Q. So with respect now to interstate, the reports which have been made to you have reference, generally speaking, to the smaller communities such as I have named?

A. I think so generally.

Q. Now, you are aware, I assume, Judge Reed, that the Rock Island Motor Transit now holds permanent authority [fol. 945] to transport all types of freight——

A. That is my understand--.

Q. —by truck to all of these points on rail billing?

A. I believe so.

Q. So that the service to these small towns could still be perfomed under the permanent authority which the Rock Island Motor Transit has now?

A. Well, I think it could be performed, yes, under rail billing, but——

Mr. Fowler: I believe that is all.

Exam. Carpenter: Redirect.

Redirect Examination.

By Mr. Howland:

Q. Judge Reed, are you familiar with what the Interstate Commerce Commission refers to as key-point restrictions on motor carrier operations?

A. Yes; I think so.

Q. Were you aware of the fact that on the permanent authority of the Rock Island Motor Transit Company, so far as handling shipments on rail billing, that key-point restrictions now exist at Omaha, Nebr., Des Moines, Iowa, and collectively what is known as the Quad Cities of Davenport and Bettendorf, Iowa, Rock Island and Moline, East Moline, Ill.?

A. Yes.

Q. Would the presence of those key-point restrictions, in your judgment, make it feasible to perform a motor car- [fol. 946] rier transportation for shipments moving on rail bill, say, for instance, starting a shipment from Omaha, Nebr., destined to Victor, Iowa, transporting it from Omaha to Des Moines by boxcar and thence transferring to a truck and operating from Des Moines to Victor, Iowa, by truck?

Mr. Fowler: That is objected to——

By Mr. Howland:

Q. Would such a transportation service, in your opinion, be feasible?

Mr. Fowler: That is objected to as immaterial, calling for hearsay evidence, calling for an incompetent conclusion of the witness.

Exam. Carpenter: Objection overruled.

A. Well, from what experience we have had with those matters, I would say that is not feasible.

By Mr. Howland:

Q. You have had some problems along that line with respect to the operations conducted by some of the railroad carriers, have you not——

A. Yes; we have.

Q. —within the State of Iowa.

Mr. Howland: That is all.

Exam. Carpenter: Re-cross.

Mr. Fowler: That is all.

Exam. Carpenter: You are excused, Judge. Thank you.

(Witness excused.)

[fol. 947] WALTER H. McKEAN was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, please?

A. Walter H. McKean.

Q. Your home is where?

A. 1504 Elm, Grinnell, Iowa.

Q. What is your business, Mr. McKean?

A. I have a Ben Franklin variety store in Grinnell.

Q. How long have you been engaged in business there?

A. Three years.

Q. And this store that you have there, it is your own? That is, you own and operate the store?

A. Yes, sir.

Q. You say you have a Ben Franklin store. Is that an organization of variety store dealers that are sponsored by a particular merchandiser or wholesaler of merchandise?

A. Yes, sir. It is sponsored by Butler Brothers. However, they are locally owned.

Q. It is what is sometimes referred to as a voluntary chain——

A. That is correct.

Q. —organization. Now, you buy a substantial part of your merchandise from Butler Brothers, I take it?

A. Yes.

Q. Butler Brothers stores—that is, Ben Franklin stores—are serviced in this territory from what central point?

[fol. 948] A. From Chicago.

Q. And do you have shipments coming into your store at Grinnell from any point other than Chicago?

A. Yes, sir; we do on occasion from St. Louis, Minneapolis, and not too much from the west.

Q. But you do have occasion to make shipments both from St. Louis and Minneapolis as well as the bulk of your shipments which come out of Chicago?

A. Yes, sir.

Q. What carrier has been handling those shipments both from Minneapolis and Chicago?

A. Well, the one we frequently use from Minneapolis is the M&StL, from Chicago the Rock Island Motor Transit.

Q. What about your St. Louis shipments? Do those come by motor carrier or some other means?

A. No; they generally come M&StL also. Very few.

Q. Your shipments from——

A. Chicago is the bulk. I would say 90 percent of our merchandise comes from Chicago.

Q. From Chicago?

A. Yes, sir.

Q. About how frequently do you have occasion to get merchandise from Chicago?

A. We get it in on the average four or five times a week.

Q. About what volume do those shipments customarily run?

[fol. 949] A. Oh, I would say we average 800 to a thousand pounds a week.

Q. Do you have occasion to make shipments in excess of 5,000 pounds to serve your store?

A. No, sir.

Q. How have you found the service performed by the

Rock Island Motor Transit to you at Grinnell has worked out, Mr. McKean?

A. Very well. I can send in orders on Saturday and the merchandise is in the store on Thursday, which is excellent service, and I can always plan on it being there.

Q. Now, is there any other motor carrier to your knowledge that serves Grinnell that renders a service that is equal to or comparable with that of the Rock Island Motor Transit service?

A. No; we don't have. The reason I like the Rock Island Motor Transit is because if I am not there, which is quite often, we get shipments maybe of 50 to 70 cases in sometimes, and when I get back to the store those cases are down in my basement all stacked up, and they always see that that merchandise is put away and put away properly. They have always taken care of me very well in that respect.

Q. Is there any other motor carrier doing business in the City of Grinnell which has a full-time terminal agent there?

A. Well, I guess you would call him full time, this Western Transportation, but the facilities he has are very inadequate.

Q. They do have a terminal agent at Grinnell?

A. I believe so. I believe they do have.

[fol. 950] Q. Would the substantial reduction or elimination of the service presently performed by the Rock Island Motor Transit from Chicago to Grinnell have any effect on your business?

A. Yes; because now I know when the merchandise is to arrive and if we didn't have that service no doubt it would come to Des Moines and would have to unload and go back to Grinnell again. That has happened in the past.

Q. You have had that experience with some other carriers in the past?

A. Yes; especially on seasonal goods. I was supposed to have Easter candies in the store on a certain day and on one occasion it was up in Des Moines some place, and we had to wait and send a tracer to get it to Grinnell. They had unloaded it up here and evidently forgot it. Anyway, it was unloaded up here some place.

Mr. Howland: I think you may cross-examine.

Exam. Carpenter: Mr. Fowler.

Cross-examination.

By Mr. Fowler:

Q. What is the service from Minneapolis to Grinnell that you use?

A. The M&StL railroad.

Q. Do they have a truck operation, too?

A. No, sir; not to my knowledge.

Q. In other words, you are using rail service from Minneapolis to Grinnell?

[fol. 951] A. That is right.

Q. Via the M&StL railroad?

A. Yes, sir.

Q. Do you use rail service on the Rock Island railroad?

A. We do on shipments generally from the east, Pennsylvania and glassware and crockery, and so forth, from the east, generally comes rail.

Q. You also use the service of the Rock Island railroad through its truck subsidiary, the Rock Island Motor Transit Company?

A. That's right.

Q. What other carriers are you or have you used from Chicago to Grinnell?

A. We always ask that the Rock Island Motor pick it up on our orders. However, in some instances, why, the Iowa-Nebraska freight line has brought it in and they route them that way. Why I don't know because we always route——

Q. You are talking about the Iowa-Nebraska Transportation Company?

A. That is right.

Q. And you also mentioned Western Freight Lines.

A. That is right.

Q. What about the Des Moines Transportation Company?

A. Not very often. I don't imagine we will get a shipment over once every 3 months.

Q. You have had such shipments from them?

[fol. 952] A. Yes, sir.

Q. I think your shipments, you said, would average under a thousand pounds?

A. Yes, sir.

Q. What is this service that the Rock Island Motor Transit gives you? You said you have a shipment of a number of cases come in, it is unloaded, is it, and taken down in your basement?

A. Yes, sir.

Q. Put away for you down there?

A. They stack it up down there. They see it gets into the basement. I have a chute outside and some doors down below and they always manage to get it in there.

Q. And they stack it up for you?

A. Yes, sir. Very good service.

Mr. Fowler: That is all.

Exam. Carpenter: Redirect.

Redirect Examination.

By Mr. Howland:

Q. You referred to some experience you had had with some seasonable merchandise. Was that one of the lines referred to by Mr. Fowler in his questions?

A. I just don't recall. I can't remember just what transportation company it was. However, take this for what it is worth, there was another merchant in town that had the same experience, had some candy go to Des Moines, and I think he got his after the holidays sometime. He probably had to sell it next year, I don't know. It was after [fol. 953] the holidays when he got his seasonable candy in and he even made a trip to Des Moines to find out where it was.

Mr. Howland: I think that is all. Thank you.

Exam. Carpenter: You are excused.

(Witness excused.)

PAUL BRINK was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, please?
A. Paul Brink.
Q. You live in Grinnell, Iowa?
A. I live in Grinnell; that is right.
Q. In what business are you engaged, Mr. Brink?
A. I am the manager for the Grinnell Shoe Company.
Q. And what kind of a business is the Grinnell Shoe Company engaged in? Is that a retail store?
A. No. The Grinnell Shoe Company is a manufacturer of women's shoes.
Q. And you have a manufacturing plant located there in Grinnell?
A. That is correct; yes.
Q. About how many people do you have working in that plant?
A. We employ about 125 people.
Q. Is that a seasonal or year-around operation, assuming that you have the business available?
[fol. 954] A. For the most part, it is a fairly steady year-around business.
Q. Now, you make your sales direct to retailers in various parts of the country or do you handle through some other method of distribution?
A. No; we have no company-owned stores. All of our sales are made to independent merchants and department stores and small chains. About 75 percent of our business is to independent merchants. The bulk of our business is done in the Midwest. However, we do have accounts as far as each coast.
Q. Do you have occasion to ship your products out from Grinnell by motor carrier, by truck?
A. Aside from the parcel post shipments, almost everything that we ship moves by truck.
Q. Now, on your inbound shipments of raw material

such as hides, leathers, trimmings, findings, and matters of that sort, how are those shipments handled?

A. Most of those shipments come to us by truck.

Q. From what points do you customarily make purchases of those materials?

A. The more significant points are Tullahoma, Tenn., Sheffield, Ala., Grand Rapids, Mich., Boston, Fond du Lac, Wis., Lancaster, Pa., St. Louis, Chicago, Trenton, N. J., and Red Wing, Minn.

Q. Now, what motor carrier has been handling your shipments into Grinnell from those points in the past?

A. The Rock Island Motor Transit has been hauling most [fol. 955] of those shipments which have originated with other carriers and turned over to Rock Island Motor generally at Chicago.

Q. Either at Chicago or the Tri Cities, I take it?

A. Or Tri Cities, yes.

Q. From most of those points of origin you have named?

A. That's right.

Q. On your shipments of raw materials moving into the factory, do you have occasion to make shipments that will exceed 5,000 pounds in weight for a single shipment?

A. In the past we have had such shipments from Grand Rapids, Mich., from Lancaster, Pa., Trenton, N. J., and I believe also from Sheffield, Ala.

Q. Have you had occasion to have such shipments made to you in the last 4 or 5 months since the Rock Island Motor Transit Company has been under the present restrictions?

A. I don't recall of any. That is partly explainable by the fact that at the present time we are reducing the volume and size of incoming shipments. We are making our purchases more on a spot basis instead of projecting our requirements as we ordinarily would do.

Q. Has that been in part due to market conditions or Government allocations and restrictions?

A. Mainly because of market conditions.

Q. If conditions were favorable, and were fairly stable, would you have occasion to make inbound shipments to your [fol. 956] factory in excess of 5,000 pounds maximum?

A. Yes; we would because frequently we can obtain a price advantage by buying enough quantity, and of course

we, I believe, get a little reduction in transportation cost for the larger shipments.

Q. Now, if the Rock Island Motor Transit were in a position to handle shipments in excess of 5,000 pounds, would you use that service by way of the Rock Island Motor Transit Company?

A. Oh, yes; definitely.

Q. Have you used the Rock Island Motor Transit Company in the past on such shipments?

A. Yes.

Q. Now, with respect to your outbound shipments, you said, I believe, that your sales were made principally in the midwestern part of the United States, but that you did have outlets on both coasts and you had occasion to ship to a variety of destinations?

A. That is correct.

Q. What would be the size of the shipments that you would customarily have occasion to make out from your factory to these destinations?

A. We have never made any study of that, but a rough figure on my part probably would be 150 pounds per shipment.

Q. In other words, most of your outbound shipments would be in the category of the relatively smaller weight shipments?

A. That is correct; yes.

[fol. 957] Q. And you would have few, if any, of what would be characterized as volume shipments moving from your plant to any particular destination?

A. No; that would happen very, very seldom.

Q. Now, have you had any experience with respect to having any service on these outbound shipments to points outside the State of Iowa on these shipments that you are making from time to time from your factory with other motor carriers other than the Rock Island Motor Transit?

A. You asked me if we have had any experience?

Q. Yes. What about their willingness or ability to handle those 150-pound shipments for you?

A. Well, our experience on that has not been too satisfactory particularly to points in Ohio and Michigan. We frequently run into situations where we are advised that

certain points have been embargoed. We have had to change our method of shipment to those points. By now, of course, we have fairly well learned which ones they are so we ordinarily reject motor shipments to those points. Missouri is also another State in which we have had some trouble on that account.

Q. What about the carriers that operate through Grinnell; have you had any experience with them?

A. Yes. We have had inbound shipments delivered to us by Iowa-Nebraska Transportation Company, Western Transportation Company, and possibly an occasional one from Des Moines Transportation Company.

[fol. 958] Q. What about those carriers affording any service outbound from your plant?

A. We have never felt that that arrangement was satisfactory. Now, that bears a little explanation. We have built a substantial portion of our business on service and the fact that we maintain a very effective in-stock department. That means that we pride ourselves on shipping orders the same day as received and a substantial part of our orders are shipped that way. Now, that means that if we have a designated time of day for the accepting carrier to pick up our shoes, we must reasonably expect him to be there on or about that time, which is late afternoon. We prefer to see our shoes move out of Grinnell at the earliest opportunity and I think in practically all cases it is the same night which the shoes are picked up.

Q. What experience have you had with some of these other motor carriers that you have referred to as to their willingness or ability to perform that service for you?

A. Well, in Grinnell, of course, Mr. Pasch apparently is the cartage agent. I don't know the technical term you people use and he represents, I think, all three carriers that I have mentioned. Possibly an additional one or more, and while he is a hard worker and conscientious, I think it is just physically impossible for him to take care of handling the freight and conducting all the affairs of an agent for [fol. 959] one transportation company, let alone three or four or more.

I can't say much on outbound shipments because we seldom have tendered outbound shipments to any carrier other than Rock Island Motor Transit.

Q. Has there been any particular reason for that or any experience that you have had?

A. Of course, our reason for giving them to Rock Island Motor Transit is because they have afforded us what we consider to be the best service, and if we find it desirable or necessary to obtain rate information, we can get that quickly. We of course are frequently and generally obligated to ship by the cheapest method and sometimes it is necessary that we obtain the rate to the destination.

Q. Do you have any other carrier in Grinnell that has a full-time agent located there?

A. No; not to my knowledge.

Q. Rock Island Motor Transit does have such a man?

A. That is right, and maintain an office there, and full-time paid employees.

Q. Now, let me ask you this question, Mr. Brink. In the event the service of the Rock Island Motor Transit Company to interstate points from Grinnell or from interstate points into Grinnell was eliminated entirely or substantially curtailed or further restricted, would that have any effect on your business?

A. Well, I feel that it would because we are, of course, [fol. 960] primarily dependent upon good service on inbound shipments to keep our plant operating. Even the delay or late receipt or loss of one shipment might throw our plant completely out of work.

Then, as far as outbound shipments are concerned, as I say, we have built our business on service, and we are interested in giving our customers the best possible service that we can because at least a large portion of our shoes would come under the category of seasonal merchandise. Something like the story about the candies.

Mr. Howland: You may cross-examine.

Cross-examination.

By Mr. Fowler:

Q. As I understand it, at Grinnell the Rock Island Motor Transit freight dock is at the railroad depot.

A. That is correct.

Q. And that the Rock Island railroad maintains two pick-up-and-delivery trucks in Grinnell that call at your place to make pickups and deliveries.

A. As to the number I don't know, but I am sure that it is two or more.

Q. And that pickup truck, when it calls at your place of business, picks up both rail-billed freight as well as motor carrier-billed freight?

A. Yes.

Q. Your shipments go out in certain instances on rail billing?

[fol. 961] A. In a few instances; yes.

Q. And in certain instances on motor carrier billing?

A. In most instances.

Q. Now, you said you have available there at Grinnell from the railroad a rate information. You can call them up and find out what the rate is to a certain point; is that correct?

A. Both rail and truck.

Q. Both rail and motor carrier?

A. Yes.

Q. Are you solicited for your business by the Rock Island Motor Transit Company solicitor?

A. Yes.

Q. And are you solicited for rail freight by the railroad solicitor?

A. Yes.

Q. On your outgoing shipments, you say they average about 150 pounds?

A. Yes.

Q. And you use the Rock Island Motor Transit almost exclusively on your outgoing shipments?

A. That is right.

Q. You have found, for instance, in Ohio and Missouri, as I understand it, that due to some complications with inter-connecting carriers, the service to some of the small towns in those States wasn't satisfactory?

[fol. 962] A. That is right.

Q. And to correct that, you now use railroad service to those points?

A. Either railroad service, parcel post, or express.

Q. You have substituted some rail service for your previous motor carrier service?

A. Yes.

Q. You have substituted some express and parcel post service for the other service?

A. Yes.

Q. Now, on your incoming shipments, let's speak about the usual and ordinary situation. A shipment of yours of any substantial volume would consist of what?

A. You mean in terms of pounds?

Q. In the term of pounds, what would it consist of? For instance, if you had a truckload which, we will say, is a minimum of 20,000 pounds moving in, what would it be?

A. We would seldom have a truckload.

Q. I see. Then even your incoming shipments as well as your outbound shipments are so-called small volume shipments?

A. Yes. However, our inbound shipments would probably come closer to at least a thousand-pound average.

Q. Now, some of that incoming freight is now being handled by Iowa-Nebraska?

A. Yes.

[fol. 963] Q. Western Freight Line?

A. Yes.

Q. Des Moines Transportation Company?

A. Probably not at the moment.

Q. But the other two particularly?

A. Yes.

Q. When you control the routing on incoming freight, do you specify the Rock Island Motor Transit Company?

A. Almost invariably when we are familiar with the connecting carrier.

Q. It would be a rare instance when you would specify any of the other motor carriers?

A. Generally, when it comes in by other motor carrier is because the routing has been left open or because the connecting carrier has not followed the instructions on the bill of lading.

Q. But if you have anything to say about it, it is all Rock Island railroad or Rock Island Motor Transit?

A. Generally speaking.

Q. Do you use the service of the M&StL railroad to Grinnell?

A. Not intentionally.

Q. Not intentionally, and that, I presume, is for the reason that the service nowhere compares with that you get from the Rock Island?

A. That is right; from the Rock Island Motor Transit.

Q. And the Rock Island railroad?

[fol. 964] A. Oh, I wouldn't say that the difference in service between either railroad was——

Q. What difference between the two have you drawn? Does one have on a blue coat and the other a green one?

A. That is what I say, there is no difference, so far as I know, between the service of either railroad.

Q. Is there any difference between the service of the Rock Island railroad and the service of the M&StL railroad?

A. Not that way.

Q. But you don't use the M&StL railroad service?

A. Because we don't have any shipments originating at points where it serves.

Q. But you do use the Rock Island railroad?

A. That is right; primarily on carload shipments.

Q. Now, didn't you tell me that in order to correct this situation you ran into in Missouri and Ohio that you had started using some rail service?

A. That is only because we couldn't get truck service.

Q. I understand, but am I correct in that?

A. Yes.

Mr. Fowler: Okay. That is all.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Howland:

Q. Just to keep this thing straight. Information about railroad rates and rail shipments you get from what source?

[fol. 965] A. From the Rock Island railroad, the agent or his clerk.

Q. Now, when you have motor carrier shipments to be made and you want to get rates or information or service schedules and matters of that sort, where do you get that information?

A. We get that from the Rock Island Motor Transit.

Mr. Howland: That is all.

Exam. Carpenter: Anything further? You are excused, sir.

(Witness excused.)

HARRY P. PIKE was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you please state your name, place of residence and occupation?

A. Harry P. Pike.

Q. You live in Shelby, Iowa?

A. Shelby, Iowa.

Q. What is your occupation?

A. Independent garage operator.

Q. How long have you lived at Shelby?

A. Resided in the town 6 years.

Q. Now, Mr. Pike, where is Shelby located?

A. Approximately 30 miles east of Council Bluffs, northeast.

Q. Shelby is located on U. S. highway No. 6, isn't it?

A. No.

[fol. 966] Q. How far off of the main paved highway is Shelby located?

A. Two and a half miles north.

Q. Two and a half miles north of highway No. 6?

A. 64. Six, I don't know the exact mileage on that.

Q. But you are located off of a paved highway 2½ miles, is that correct?

A. Yes.

Q. Now, you say you are an independent garage operator. By that you mean that you don't handle any particular line of cars but operate a general repair garage?

A. Just operate a general repair garage. No car dealer whatsoever.

Q. You are not a car dealer?

A. No.

Q. Now, in connection with your garage work, do you do a general line of repairing of machinery as well as automobiles?

A. Only farm tractors and no machinery.

Q. But you repair tractors?

A. Yes.

Q. How large a town is Shelby?

A. Approximately 700.

Q. Is it the usual Iowa town of that size with the usual retail stores and service companies like grocery stores and drug stores, garages and filling stations and elevators and things of that character?

[fol. 967] A. Yes.

Q. Now, you are located on the Rock Island railroad, are you not?

A. Yes.

Q. Is that one of the communities that is going to be on a branch line?

A. Yes, sir.

Q. When the main line of the Rock Island is changed, it is going to miss Shelby, is it not?

A. Yes.

Q. Now, in addition to your repair work you handle any automotive supplies such as batteries, tires, and things of that character?

A. Yes; I do.

Q. From where or what source do you get your batteries and automotive supplies and parts?

A. Batteries are sent out of Kansas City, Kans., and automotive parts out of Omaha, Nebr.

Q. What transportation company have you been using to get your batteries and your automotive parts?

A. Chiefly, Rock Island Motor Transit.

Q. And why have you been using that company?

A. Well, it seems to be the only company that had daily service into Shelby at the time I went in business. It seemed to be the most—you get the best service from it.

Q. Now, you have a number of livestock haulers, do you not, that haul from—you are in Shelby County, are you not? [fol. 968] A. Yes.

Q. —haul from around Shelby to Omaha?

A. That is right.

Q. And I assume most all those livestock haulers haul back a little freight once in a while when they come back from Omaha?

A. Yes; they do. One of them runs a freight service 2 days out of the week on the return. Not on the return. He makes special trips in with small freight and picks freight up.

Q. Is that Rheiner Brothers?

A. Yes.

Q. How often do you say their service is to Omaha, 2 days a week?

A. Two days each week.

Q. Now, you said you have been using the Rock Island Motor Transit service on service that you have been getting there, is that correct?

A. That is right.

Q. By that company. Is there any company that operates daily through Shelby to Omaha and other points, both in the State of Iowa and outside the State of Iowa, other than the Rock Island Motor Transit Company that you know of?

A. No; not daily service.

Q. And the closest daily service is this twice-a-week service by Rheiner Brothers, is that correct?

A. Will you repeat that?

[fol. 969] Q. I say, the closest you have to daily service other than Rock Island Motor Transit, is that service provided twice a week by Rheiner Brothers?

A. Yes.

Q. Do you know whether or not Rheiner Brothers have rates that they can interline or through rates with other carriers so that a shipment coming from a point beyond Omaha can come on a through rate by Rheiner Brothers?

A. No; I don't.

Q. You don't know what their rate set-up is?

A. No.

Q. What would be the effect on your business, Mr. Pike, if the Rock Island Motor Transit Company were required to cease operating or materially curtailed its operations into the town of Shelby?

A. Well, I am not a very large business operator myself and I am just here in the interest of the town, due to the fact that I am mayor elected for the coming 2 years, and I would like to see the town itself have good daily freight service due to the fact that the Rock Island railroad is going to be abandoned in the future.

Q. Well, not only in addition to the welfare of the town, but how about your own business; do you feel that that would affect you in any way if that service should be eliminated or substantially curtailed?

[fol. 970] A. Oh, sure; certainly.

Q. About how frequently do you get shipments into your place of business?

A. Well, at the present time I would say they are rather infrequent as far as motor freight is concerned. The biggest share of mine come in by parcel post. Others are delivered by the parts men themselves.

Q. Can you give us some idea about how often you do get shipments in by motor freight?

A. Twice a year.

Q. Is it fair to say that you are here more as a spokesman for the community than you are speaking in behalf of your own business?

A. Yes.

Mr. Nolan: That is all. You may cross-examine.

Mr Fowler: Mr. Nolan, is his a rail point now served by the Rock Island railroad?

Mr. Nolan: Yes.

Mr. Fowler: And due to the relocation of your tracks out there, it will no longer be?

Mr. Howland: Shelby will continue to be a point on the Rock Island railroad, but the operation when the new line is built between Atlantic and Council Bluffs, Shelby will

then be the end of a branch operation. According to the present plan, it will receive only tri-weekly rail service.

[fol. 971] Mr. Fowler: How far is Shelby from U. S. highway 6?

Mr. Howland: 64 is the closest.

The Witness: 64 is the closest.

Cross-examination.

By Mr. Fowler:

Q. As I understand it, you have rail service in there now at the present time?

A. Yes.

Q. And you also have service by the Rock Island Motor Transit?

A. That's right.

Q. And also service by Rheiner Brothers out of Omaha?

A. Yes.

Q. And also service by the Iowa-Nebraska Transportation?

A. Iowa-Nebraska; no.

Q. Iowa-Nebraska. Have you ever used the Iowa-Nebraska?

A. No.

Mr. Howland: I think the record of the prior hearing indicated Iowa-Nebraska did not serve Shelby.

Mr. Fowler: That is all. Thank you.

Exam. Carpenter: You are excused, sir.

(Witness excused.)

Ernest Plagman was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you state your name, please, place of residence, and occupation?

[fol. 972] A. Ernest Plagman, Shelby, Iowa.

Q. What is your occupation?

A. Well, I am semi-retired. I live in town and go out to the farm and help the boy off and on.

Q. You don't have anything shipped in or out, do you?

A. Well, no, not locally other than just maybe some small things I need on the farm, but nothing in any line of business.

Q. Now, have you advised yourself and informed yourself in regard to the transportation needs of any particular business enterprises in Shelby so that you can speak with some authority as to their needs?

A. Well, the local druggist there says it is quite a benefit to keep the local motor truck in there in his shipments from St. Louis and to points where he has his drugs and other things come in from.

Q. What farm implement companies do you have there?

A. There is International and Massey Harris. That is the only two in town now.

Q. Do you know where they get their parts and smaller units and also their larger units such as tractors, combines, corn-pickers and things of that character?

A. The larger units come in by local freight at present, the combines, his tractors, quite a bit of what isn't hauled in by truck. One outfit hauls their own. The other I think comes by the railroad, by freight.

[fol. 973] Q. Now, as a member of the community you are speaking prima ily as a resident of that community, is that right?

A. That is right.

Q. Do you know Mr. Holtz?

A. Yes; I do.

Q. What is his business there?

A. He is in the implement business there, but he has no line of machinery. He just buys whatever he can sell, manure loaders, wagon boxes, and stuff like that.

Q. He is not a Deere dealer or International dealer?

A. No; that is right.

Q. He handles varied lines such as New Idea spreaders and things of that kind?

A. Rheiner Brothers handle New Idea, but he does

handle manure loaders. I don't think he has any straight line of machinery; whatever he can buy and sell and so on.

Q. From your own personal knowledge, does any other trucking company serve Shelby regularly other than Rock Island Motor Transit?

A. No. I have seen Fredrickson come through there from Harlan, but they are not regularly through there.

Q. So far as your acquaintance with the community, does any other motor carrier other than Rock Island Motor Transit have trucks in Shelby daily?

A. None other than Rheiner Brothers. They make a trip twice a week.

[fol. 974] Q. They make a trip only twice a week to Omaha?

A. Yes, sir; that is their general policy.

Q. Are they livestock haulers?

A. Yes, sir.

Q. And haul corn and grain and other things for the farmers there?

A. Yes.

Mr. Nolan: That is all.

Cross-examination.

By Mr. Fowler:

Q. They do maintain a twice-a-week service on general commodities out of Omaha to Shelby?

A. Yes. I think that has been stated.

Mr. Fowler: That is all.

(Witness excused.)

H. H. Witmer was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you state your name, place of residence, and occupation, please, Mr. Witmer?

A. H. H. Witmer, superintendent, One-Minute Washer Company at Kellogg, Iowa.

Q. Do you live at Kellogg?

A. I live at Newton.

Q. And commute back and forth, is that right——

[fol. 975] A. And commute back and forth.

Q. —— to the One-Minute Washer Company at Kellogg. Now, I believe you testified at the other hearing in this case, did you not?

A. That is right.

Q. And you are familiar with the general proposition before the Commission in this proceeding?

A. That is right.

Q. How long have you been connected with the One-Minute Washer Company?

A. At Kellogg, since 1939, and prior to that time the One-Minute Washer Company was at Newton and since 1919 at Newton.

Q. Did you tell us what your position is with the One-Minute Washer Company?

A. Superintendent.

Q. You are familiar with the transportation and other needs of the company, are you not?

A. That is right.

Q. I assume by the name that the One-Minute Washer Company manufactures washing machines, is that correct?

A. Washing machines and drain tubs and repair parts.

Q. Now, how are your shipments handled which come into Kellogg?

A. Our incoming shipments are all handled by the parent company, the Midwest Metal Stamping Company. We are a subsidiary of the Midwest Metal Stamping Company. The incoming shipments are all handled by them. Mr. [fol. 976] Foster will testify as to that.

Q. How about your outbound shipments, how are they handled?

A. Outbound shipments, we handle all the finished merchandise which is finished washers, finished drain tubs, and finished repair parts.

Q. What are the destination points for those shipments which are outbound?

A. Practically all over the world. Eight or ten foreign countries and practically every State in the Union.

Q. What would you say would be the volume of your company there at Kellogg in regard to units manufactured during the course of a year?

A. About 18,000 units in washers. I presume 60 to 70 thousand units of drain tubs.

Q. How about these repair parts?

A. Repair parts are just in connection with our own washers. We are an old firm 50 years old, and we maintain adequate repair stocks for practically all washers we have ever built.

Q. Do you handle those repair parts through your established dealers in various parts of the country?

A. Yes; through our own dealers and also through the appliance parts dealers.

Q. That is what I mean, whether it is an independent dealer or your own company dealer.

A. That's right.

[fol. 977] Q. How do your shipments move outbound, in carload quantities, truckload quantities, or less-than-truckload quantities?

A. All three. The big bulk are less-truckload, less-than-truckload.

Q. What would those shipments average, the l. t. l. shipments?

A. They will average from minimum l. t. l. shipments up to full truckloads.

Q. You say they may move to all parts of the country?

A. That is right; every place.

Q. What transportation company has your company been using primarily for these outbound shipments?

A. Rock Island Motor Transit practically exclusively.

Q. Why is that so?

A. They are the only truck line that actually makes Kellogg on a daily basis. Their service is excellent. We have an empty trailer there every morning and we load that trailer and it is pulled out at 1 o'clock practically every day.

Q. Now, Mr. Witmer, I assume that you have had experience with other trucking companies?

A. That is right.

Q. Serving Kellogg with outbound shipments?

A. That is right.

Q. What is the fact as to whether or not you can get truckload shipments out by other trucking companies without too much difficulty?

[fol. 978] A. Yes; we can.

Q. How about your small shipments on a regular basis?

A. It would be very difficult to do, I think, on account of the volume of the shipments.

Q. In other words, do you find that the independent transportation companies will handle the volume shipments, several thousand pounds or truckload quantities, whereas for the small shipments they are not desirous of that business?

A. That is right. We don't have enough volume for them.

Q. What effect would it have upon your company in the event that there was a diminution or a substantial reduction in the service of the Rock Island Motor Transit in serving your company at Kellogg?

A. It would be very bad. In fact, our business is practically built around the Rock Island Motor, you might say.

Q. Your business was established and developed with that service there available, is that right?

A. That is right; yes, sir.

Q. Do you know of any other transportation agency serving Kellogg that could give the same type, character, and quality of service that the Rock Island Motor Transit Company has been giving your company over the years?

A. Well, not at the present time; no. We have Keeshin's service three times a week, I might say.

Q. Is that service as satisfactory as Rock Island Motor Transit?

[fol. 979] A. No; it isn't.

Q. I believe you said that you route almost exclusively your shipments by Rock Island Motor Transit out of Kellogg?

A. Yes; I would say 85 percent of our total shipments.

Q. Now, does the 5,000-pound limitation that Rock Island Motor Transit has been operating under during the past few months affect your ability to get your shipments routed out of your plant?

A. Yes; in some cases.

Q. Would you care to elaborate a little on that?

A. I just made a few notes on that. In February—I took just one particular month; in February of this year we had eight truckload shipments, that is, full truckloads. In one instance the customer sent his own truck in. In another instance the delivery was on the Watson line and we made arrangements with the Iowa-Nebraska to come in to get the load because Watson didn't have rights in there, but the Iowa-Nebraska did.

One other shipment, the dealer specified Merchants delivery and the five other shipments all moved Merchants, but we would have moved those five loads by Rock Island Motor had they been able to handle the shipments.

Q. Now, you say if the Rock Island Motor Transit had been able to handle those shipments, you would have shipped by Rock Island Motor Transit?

A. That is right.

[fol. 980] Mr. Nolan: I believe that is all.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Fowler:

Q. As I understand it, these eight full truckloads, one of the customers sent his own truck in?

A. That's right.

Q. One or two of the others specified Merchants?

A. That's right. One.

Q. And you got the Iowa-Nebraska then?

A. That's right.

Q. And did I understand you correctly that the Rock Island Motor Transit set a trailer at your place of business every morning?

A. They don't set it at our place of business; they set it at the Rock Island depot which is only 1 block from our plant.

Q. Is your freight picked up at your place of business by the Rock Island Motor Transit?

A. That is right.

Q. They pick up both your rail shipments and your truck shipments?

A. That is right; yes, sir.

Q. And you are using Rock Island Motor Transit almost exclusively on your outbound shipments?

A. That is right.

Q. Most of which are the smaller type shipments?

A. That is right.

[fol. 981] Q. Now, your inbound shipments, I think you said, you had no trouble getting truckload service or service on volume shipments?

A. That's right.

Q. But you were having trouble on your small shipments?

A. Not particularly. I didn't say that.

Q. I meant except for the Rock Island Motor Transit.

A. That is right.

Mr. Fowler: That is all.

Redirect examination.

By Mr. Nolan:

Q. By the way, Mr. Witmer, do you specify Rock Island Motor Transit or have you occasionally used Rock Island railroad billing in connection with Rock Island Motor Transit service?

A. Yes; we have done that just recently, truckload shipments to St. Paul. I billed it on rail billing, but the Rock Island Motor Transit handled the shipment.

Q. That was on account of the 5,000-pound limit?

A. That is correct.

Q. On the Rock Island Motor Transit?

A. That is not included, however, in the 8 truckloads I mentioned. That load was in January. This happened to be February.

Q. Would you, however, prefer to have motor transit billing rather than rail billing?

A. Much prefer.

Q. Have you had some experience on rail billing that [fol. 982] wasn't as satisfactory as motor transit billing?

A. No; I don't say that we have where the delivery is on the line. I think it would be very bad if it had to go to a destination point and then transfer to a rail. For instance, some points, we have had some points where we have made a mistake in billing, we have routed it Rock Island Motor Transit and it arrived in Chicago and no truck service to the point and they have had to turn it over to rail, whereby they wire back and we have to advance freight as far as Chicago. We have had that on an occasion or two.

Q. From your acquaintance with the transportation industry, do you know of your own personal knowledge that where a rail freight is billed out, handled by Rock Island Motor Transit to certain points for interline with some other motor carrier in this area here, whether or not a motor carrier can handle that on rail billing?

A. I am not——

Q. You are not familiar with that?

A. No.

Mr. Nolan: I think that is all.

Re-cross-examination.

By Mr. Fowler:

Q. On this full truckload that you said you had occasion to ship to St. Paul, was that loaded on a Rock Island Motor Transit truck at your place of business?

A. Yes, sir.

[fol. 983] Q. Then you billed it out on rail billing?

A. On rail billing; yes, sir.

Q. And it moved to St. Paul on truck?

A. I presume so.

Mr. Fowler: That is all.

Redirect examination.

By Mr. Nolan:

Q. By the way, have you ever been solicited by a representative of the Rock Island Motor Transit Company to ship on rail billing?

A. No, sir.

Q. And in your dealings with the Motor Transit Company, insofar as motor transit business is concerned, has that been with a representative of the Motor Transit Company?

A. Oh, yes.

Q. How about where you ship freight by rail, who do you deal with on that?

A. Our local agent there mostly unless I want special rates or something and then I call Mr. Brown of the Rock Island office in Des Moines here.

Q. When you speak of local agent, you mean the local railroad agent?

A. Yes; that is right.

Mr. Nolan: That is all.

Exam. Carpenter: Anything further?

Re-cross-examination.

[fol. 984] By Mr. Fowler:

Q. Does the Rock Island railroad maintain a railroad freight dock at Kellogg?

A. Yes, sir.

Q. And have an agent there?

A. Yes, sir.

Q. Does the Rock Island Motor Transit have a terminal there, too?

A. The same agent handles the Rock Island Motor freight.

Q. The same agent then at Kellogg handles the Rock Island railroad freight as well as the Rock Island Motor Transit truck freight?

A. That's right.

Q. You deal with just the one man?

A. Yes; sir.

Mr. Fowler: That is all.

Mr. Nolan: That is all.

Exam. Carpenter: You are excused, sir.

(Witness excused.)

DON FOSTER was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you state your name, place of residence, and occupation, Mr. Foster?

A. Don Foster, Kellogg, Iowa. I do the buying for the Midwest Metal Stamping Company in our One-Minute Washer division and also the Kellogg Lumber division. [fol. 985] Q. Now, just tell us about this Midwest Stamping Company; what is the general business of that company?

A. The Midwest Metal Stamping Company is the parent company and it is in the job stamping business and mostly makes parts out of metal, steel, copper and brass, and our customers are throughout the Middlewest. We have some in Chicago—mostly around in the middlewestern country and pretty large customers. We use quite a bit of steel, of course, which is our main diet.

Q. You say you are the Midwest Metal Stamping Company; that is the parent company of the One-Minute Washer Company?

A. The Kellog- Lumber division, you might say, also, the three divisions, but the Midwest Metal Stamping Company is the owner of all of them.

Q. Do I understand that so far as the metal work is concerned, the castings and the fittings and things of that character; they are purchased by the Midwest Metal Stamping Company for the One-Minute Washer Company?

A. That is right.

Q. And they are processed by your company and then the parts are assembled by the One-Minute Washer Company into the finished product, is that it?

A. That is right.

Q. So your company then has all the inbound shipments——

A. That is right.

Q. —for your work independent of the One-Minute [fol. 986] Washer Company and also all the shipments of

the raw products for the One-Minute Washer Company, is that correct?

A. That is right.

Q. In addition to this processing which you do for the One-Minute Washer Company, do you do processing and stamping and forging, and so on and so forth, for other people, other companies?

A. Yes.

Q. You don't do any foundry work?

A. No, sir.

Q. But the other processing of metals?

A. Yes. Stamping it, forming it, and so forth.

Q. You do a general business. If I wanted to have something made, you would make it for me if I was in some kind of assembling business of some kind?

A. Yes. If you had a mouse trap, we get a lot of them.

Q. You make a lot of springs for mouse traps. Would you tell us what is the source of supply your company uses for your own business and for these allied companies?

A. Well, I mentioned steel and brass. Aluminum, and motors completely assembled. Crating. Lumber and castings. Screw machine parts. Tubes. We get fabricated porcelain enamel tubes from the east. Die castings. Rubber goods. Plastics. I imagine just about anything it takes to make up commodities such as we have.

[fol. 987] Q. What are the primary sources of those supplies that you have enumerated? What general territory do they come from?

A. Ohio, Missouri, east coast. Lumber, of course, from the Northwest, most of it, and the Midwest, Chicago, Milwaukee, Minneapolis, St. Louis. It is pretty general, mostly in the Midwest.

Q. What would you say would be the volume of the business conducted by your company, the Midwest Metal Stamping Company?

A. The total operation, the three companies?

Q. Yes.

A. I would guess somewhere around 3 million a year.

Q. How many employees do you have there?

A. 200 or better, about 200 now, I believe it is.

Q. Now, how do these raw products or unassembled

products move into Kellogg there which are handled and processed by your company?

A. Well, by every means of transportation. Most of it by truck, but we use quite a bit of rail shipments. I should quality that. I suppose we get straight carloads of merchandise in probably more by rail than any other way.

Q. What would be the size of shipments in less-than-rail-car lots?

A. Truckload, l. t. l.

Q. Do you have a number of shipments come in less-than-truckload size?

[fol. 988] A. Yes.

Q. What would that consist of primarily?

A. From a hundred pounds to truckload.

Q. I mean what commodities would come in by less-truckload lots?

A. In rubber goods, most of it is less than truckload, and screw machine parts and bolts, nuts, rivets, and smaller commodities that you use.

Q. How about your motors, how do they come in?

A. We get those from two sources. I believe mostly by rail.

Q. Now, what would be the size of these shipments that come into Kellogg there in less-than-truckload quantities? What would be the average size of those shipments?

A. Well——

Q. Or could they be all sizes up to a truckload?

A. Yes; that is right. If I was to guess, probably 5 or 10 thousand pounds.

Q. How have those less-than-truckload quantity shipments been coming into your place of business?

A. By rail or truck, do you mean?

Q. Yes. I mean in less than truckload and less than carload, by what means of transportation?

A. What lines handle them?

Q. Yes.

A. Well, I believe the Rock Island Motor Transit handles quite a bit more than half of our business. However, a lot [fol. 989] of these sources are located on lines we don't always get to state the routing, and they come in by one truck line, but when we do route it, we route it Rock Is-

land Motor. Our steel, practically all comes by contract hauler. That is, these stock haulers others have mentioned, American Transit and Steel Transportation and P. and W. and some of the others.

Q. Those are by carriers who don't make regular stops?

A. Yes.

Q. Or give regular service to Kellogg?

A. They are referred to as contract carriers or stock haulers.

Q. That might be a stock hauler who lives a hundred miles away from Kellogg that brings in a load of steel one day and you may never see him again for years?

A. That is right.

Q. Why do you say you route as many of your shipments as possible with Rock Island Motor Transit?

A. Because of the service they render. We are able to get information from them and you can trace shipments and it is over night out of Chicago. If we get in a pinch for something and it is shipped out today, we have it in the morning. It is just service like anything else, I guess.

Q. Does the 5,000-pound limitation under which the Rock Island Motor Transit Company is operating, does that affect your business?

A. It has several times.

[fol. 990] Q. Would you be able to state approximately how many shipments you have had in excess of 5,000 pounds that you desired to be shipped by the Rock Island Motor Transit that you were unable to ship by that company since that restriction went into effect last September?

A. No; I wouldn't say it has handicapped us too many times. One instance I can think of is on paint. We would probably get larger shipments of paint if it wasn't for the weight restriction.

Q. Have you bought in smaller quantities on account of that weight restriction, or ordered in smaller quantities?

A. Yes.

Q. What would be the effect on your company's operation there in the event the Rock Island Motor Transit was required to terminate its operations or materially reduce them?

A. There would have to be some other service to supplant

it because it would weaken down for lack of supplies in no time at all unless some other service that was equal to that came in there.

Q. There are transportation companies such as Des Moines Transportation Company and others that do make Kellogg occasionally, are there not?

A. Yes.

Q. But do any of those companies provide the same regular service that the Rock Island Motor Transit Company does?

A. No.

Q. To your knowledge.

[fol. 991] A. No; they don't.

Q. Do you know of any company which would give the same type of service or who is available to give the same type of service as the Rock Island Motor Transit Company?

A. No.

Mr. Nolan: You may cross-examine.

Cross-examination.

By Mr. Fowler:

Q. As I understand it, on your incoming shipments of raw materials you use rail car service?

A. That is right.

Q. And you also use truckload service?

A. Yes.

Q. And on steel, for instance, that is handled by contract carriers, by P. and W., by Transit, and by a number of other carriers, isn't it?

A. Yes.

Q. Do you ever get any truckloads of steel via the Rock Island Motor Transit?

A. Well, we have had truckloads of steel for them when they were permitted to haul it out of the Chicago district for us, but here lately I have had to get a truckload or two by some other regular carrier, and I believe it was Des Moines Transportation or Iowa-Nebraska, or I would have had Rock Island had they been able to handle it. However, we try to get it by these contract haulers because of the economics involved.

[fol. 992] Q. I think it is customary for factories such as yours to have their steel delivered by such operations as Transit Lines and similar operations. I think that is pretty general out here. So that the Rock Island Motor Transit on truckloads of steel moving out of the Chicago district would be rather infrequent and you do use, of course, rail-car service on your volume shipments?

A. Yes.

Q. Now, as I understand it, the Rock Island Motor Transit are giving you a superb service there?

A. Yes.

Q. And you specify them almost exclusively?

A. That is right.

Q. And if you use some other carriers, it is because your routing directions are not observed?

A. That is right.

Q. Or because it is something that you can't control. You do, however, avail yourself of the service of the other carriers on occasion; for instance, Des Moines Transportation Company?

A. Yes.

Q. Iowa-Nebraska Transportation?

A. Yes.

Q. Do you use McCoy Truck Lines in there?

A. I believe we have; yes.

Q. Do you use Keeshin Motor Express Co.?

[fol. 993] A. Yes.

Q. Do you use Brady on steel?

A. We have; yes.

Q. That is the Brady Motor Freight I have reference to.

A. Yes.

Q. On your outgoing shipments, many of your outgoing shipments are handled by contract haulers?

A. No.

Q. I am talking about your volume shipments now.

A. Our outbound shipments are finished merchandise, and so forth.

Q. Do you ever ship a truckload of finished product?

A. Yes; but that is not by contract hauler. That is usually by Rock Island Motor or some licensed line, I guess is what you would call it.

Q. What I meant to get at, you do use the service of these other carriers I have just mentioned on some of your outbound shipments?

A. You mean the contract hauler?

Q. No. Keeshin, Iowa-Nebraska, Des Moines Transportation, Brady, and a number of others.

A. Yes.

Q. You use those. However, with less frequency than you use Rock Island Motor Transit?

A. Yes, sir.

Q. But you do use the Rock Island Motor Transit almost exclusively on your smaller shipments outbound from your factory?

[fol. 994] A. Yes.

Q. I think Mr. Witmer testified he doesn't have as much trouble getting service from many carriers on truckload quantities. Has that been you experience?

A. Yes.

Q. That is both inbound and outbound?

A. Yes. I have very little to do with the outbound, Mr. Fowler.

Q. Okay. To restate that, you get plenty of service offered to you on volume shipments by truck; you have having your difficulty with the small shipments, is that correct?

A. No; I don't believe there is any difference. I believe we have the same difficulty regardless of the size of the shipment.

Q. I see, but you do get truckloads both in and out by carriers other than Rock Island Motor Transit?

A. Yes; some.

Q. And you are using those carriers?

A. Yes. As far as outbound, I wouldn't want to say as to that because I have enough trouble getting the stuff coming in.

Q. You are in the production end?

A. In the procurement end.

Q. You don't have anything to do with the selling end?

A. No.

Q. Or shipping out end?

A. Thank God, no.

Mr. Fowler: That is all.

[fol. 995] Redirect examination.

By Mr. Nolan:

Q. Mr. Foster, is there some representative going to be here on the outbound shipment operation of your company?

A. Quite a bit of our outbound is taken care of by Mr. Witmer. I can tell you something about our outbound on our stampings.

Q. I think we ought to develop that a little bit. Can you tell us what are the outbound shipments other than the ones that go from the One-Minute Washer Company?

A. I have been with the stamping company almost 16 years so from a little company I have had a lot to do with it, and many of our stampings are delivered by our own trucks and I refer to the Maytag Company, Beam Manufacturing at Webster City, and Dexter at Fairfield.

Q. That is the Dexter Washing Machine Company at Fairfield, Iowa?

A. Yes. Woods Bros. here at Des Moines is one of our customers.

Q. Do you have any out-of-State customers for these stampings?

A. Yes; we do. We have Joslyn Manufacturing in Chicago and that is a less-than-truckload shipments, and if it is within the weight limit it goes by Rock Island; otherwise, some other carrier, but we don't have solid, full truckloads to them. I don't know of any out-of-State company that we make for that we have solid truckloads.

Q. Is it fair to say that you have a regular outbound [fol. 996] shipping of less-than-truckload quantities of these stamped articles or processed articles to customers outside the State of Iowa?

A. Less than truckload?

Q. Yes; do you have shipments going out practically every day in small quantities?

A. Yes.

Q. To customers outside the State of Iowa?

A. Yes. Into Illinois.

Q. In other words, as I understood your testimony at

the beginning, you will stamp or process for anybody who has some article they want processed, is that right?

A. Yes. We have one item I have come to my mind. We make a toy, a basketball game. We merchandise that throughout the United States, and I talked to our sales manager this morning when he came back from New York and asked him about it, and he said, "Use the Rock Island Motor Transit wherever possible to route these shipments." That is all less than truckload. Very seldom a truckload of games, but he does route that throughout the United States, and he uses Rock Island Motor Transit wherever possible as a starter.

Q. What I am trying to develop here is, your company does have shipments which are in less-than-truckload quantities that may go to any part of the United States?

A. That's right.

Q. And those shipments are quite regular?

[fol. 997] A. Yes, sir; every day.

Q. Every day. But you say so far as you know that is handled primarily by the Rock Island Motor Transit within their weight limit?

A. He said wherever their service was available, he used Rock Island Motor Transit and otherwise it is some other truck line. I tried to get him to come up here with me, but he was just in, and he said he couldn't make it, but that is one of the lesser commodities of our output, is that particular phase of it. The big end of it we transport mostly with our own trucks to local——

Q. Is it fair to say that your big shipping requirements are for these inbound shipments?

A. That is right.

Q. And that your finished products or processed products go primarily to the Maytag Company and these other washing machine companies located in the State of Iowa?

A. That is right.

Mr. Nolan: That is all.

Exam. Carpenter: Any further re-cross? You are excused.

(Witness excused.)

Exam. Carpenter: We will take a 5-minute recess.

(Short recess.)

HOMER W. DENNISTON was sworn and testified as follows:

Direct examination.

[fol. 998] By Mr. Howland:

Q. What is your name, please?

A. Homer W. Denniston.

Q. You live at Newton, I believe.

A. Yes, sir.

Q. What is your business, Mr. Denniston?

A. Treasurer of the retail lumberyard company.

Q. That is known as the Denniston-Partridge Lumber Company, I believe.

A. That is right.

Q. And does the Denniston-Partridge Lumber Company have places of business located at points other than Newton?

A. Yes; they do.

Q. Where are those?

A. In addition to Newton, you would have Colfax, Mitchellville, Altoona, Van Meter.

Q. Van Meter is about something like 20 miles west of Des Moines and the other towns that you have named are points between Des Moines and Newton all on highway 6?

A. Yes, sir.

Q. And the Rock Island railroad?

A. Yes.

Q. Mitchellville being just approximately half a mile off of highway 6?

A. Yes, sir.

Q. What lines of merchandise does your company sell, [fol. 999] Mr. Denniston?

A. We have lumber and general building materials such as steel and paint and gypsum and various products of hardware.

Q. Builder's hardware?

A. Builder's hardware.

Q. Supplies?

A. That is right.

Q. And you also sell fencing materials?

A. Yes, sir.

Q. Matters of that sort. Roofing material?

A. Roofing, steel posts.

Q. And paints as well?

A. Yes; we do.

Q. Now, I take it most of your lumber business moves in carload quantities.

A. Yes. Millwork, however, there is a great deal of millwork that moves in less than carload and less than truckload.

Q. What are your sources of supply principally on your millwork?

A. We get a good bit of it from Rock Island, Ill. Some comes from Clinton, however

Q. There are large producers of millwork located along the Mississippi River points?

A. That is right.

Q. Clear from Dubuque on down, as I recall.

[fol. 1000] A. To Muscatine.

Q. Your principal sources of supply are Rock Island, Ill., and Clinton, Iowa?

A. That is right.

Q. In the eastern part of the State. Do you buy from either of the concerns, millwork concerns, at Muscatine?

A. Yes; we do, and we have some shipments from Dubuque.

Q. Now, from points outside the State of Iowa, what transportation service do you use on millwork and allied lines that you get from these concerns like the Rock Island millwork company or sash and door?

A. We have been using Rock Island Motor Transit mostly.

Q. And about what size shipments will those run?

A. Well, they will vary. Some of them in small units, a few hundred pounds, and then they run on up to occasionally 5,000, 7,000, various weights.

Q. Do you buy those shipments in excess of 5,000 pounds

and have them shipped partly to one of your yards and other portions shipped to other portions of your yards?

A. No; as a rule they go direct to the point unless we ship by straight carloads into Newton and distribute from there.

Q. You would be affected to some extent, I take it, by the 5,000-pound maximum restriction applied on interstate shipments?

A. Yes; we are because our commodities are heavy and we never know exactly the amount that needs to be ordered. [fol. 1001] Some will be small orders and some larger. We have shipments from Omaha sometimes that will vary from a few hundred pounds up to sometimes 7 or 8 thousand pounds.

Q. Did you use Rock Island Motor Transit service on those shipments prior to the restrictions being imposed about the 1st of September of last year?

A. Yes; we have always used the Rock Island largely since they took over the White Line.

Q. What have you been doing with shipments in excess of the 5,000-pound maximum limit since that maximum was imposed?

A. Well, we have had them come in with American and of course Des Moines Transportation has brought in some. We have used the Iowa-Nebraska occasionally. Some of the other trucking lines have taken care of us on that.

Q. Now, Mr. Denniston, do you have occasion to make shipments out from any of your yards that you have reference to or is that all handled by your own truck?

A. Well, mostly by our own truck, but we don't have very many outgoing shipments.

Q. Your principal interest is in the inbound shipments——

A. That is correct.

Q. —from points of supply. Now, you referred to paints and matters of that sort. Where is your source of supply on articles of that character?

A. Our main source of supply is Sherwin-Williams Company in Chicago.

[fol. 1002] Q. They have a distributing center there?

A. Yes. They manufacture it, however, mostly.

Q. Their principal factory, I believe, is Cleveland, Ohio.

A. That is correct, but they have a factory in Chicago as well.

Q. They have a factory in Chicago. Do you buy any paints in quantities of over 5,000 pounds?

A. Yes. We have been buying quite a few in truckload shipments.

Q. Would that be available to the Rock Island Motor Transit if it were not for this restriction?

A. Yes. They have hauled truckloads for us in the past.

Q. Generally speaking, what have you found the situation to be as to the Rock Island Motor Transit Company service both as to time in transit and with respect to tracing of shipments, claim service on cases where loss and damage has occurred in transit, and similar matters? How has the Rock Island Motor Transit transportation service been?

A. Well, we have dealt largely with the Rock Island Motor due to the fact that they have taken good care of us, and if there are any claims or anything we have to file, any information we need about shipments, their local agent being right there in town, it has been very helpful to us. That is the reason most of our orders have been specified Rock Island Motor.

Q. You do have a full-time employee as a terminal agent for the Rock Island railroad in Newton?

[fol. 1003] A. Yes; we do have.

Q. That has been true ever since the Motor Transit Company took over from the White Line, has it not?

A. Yes; that is right, and I might just mention that where we have our interstate shipments and intrastate both delivered by the same carrier, it makes it a convenience to us. It sort of gums up our retail place of business if we have trucks coming in during the day. It is much better if we have just one or two deliveries a day instead of several coming in for various types of shipments.

Q. In other words, the delivery from a number of carriers may interfere with your own activities and your retailing?

A. Yes. We have rather small alleys and it gums up our

alleys to have quite a few semis coming in and our customers object to that.

Q. Now, Mr. Denniston, would the entire elimination or the substantial reduction in the quantity of the Rock Island Motor Transit Company service to your company at these points of Newton, Colfax, Mitchellville, Altoona affect your business in any way?

A. Well, I think it would reduce our service somewhat because we have found that we have received quicker shipments from Rock Island Motor than we have from several of the other transportation companies.

Q. Let me ask you, you referred to the fact that most of [fol. 1004] your shipments inbound to your retail yards were made direct from the point of origin to the point of destination except where you had a carload shipments that was billed to Newton and then distributed out. How does the service at points like Colfax, Mitchellville, and Altoona, as you have observed it, compare with the Rock Island Motor Transit that is available at Newton?

A. I don't quite get that question.

Q. Well, the question is this. We have been talking principally about the service into Newton.

A. That's right.

Q. Do you have occasion to use Rock Island Motor Transit service to Colfax, Mitchellville, and Altoona also?

A. Yes; we do, quite often.

Q. And the statements that you have made with respect to service of the Rock Island Motor Transit, would that be equally true except for the presence of the full-time agent to the points of Colfax, Mitchellville, and Altoona?

A. Yes; it would, and that is one thing I might mention about carload shipments being broken up. We do receive truckloads of paint, break those up as well and distribute them to other points.

Q. And distribute those on by motor carrier?

A. Sometimes we do by motor carrier and sometimes the trucks come to Newton and call for them.

Q. Are you familiar with the service of other trucking [fol. 1005] companies to points like Colfax, Mitchellville, and Altoona?

A. I don't believe many other truck lines go into those

towns unless it is an occasional drop shipment, and that I can't say for sure.

Q. Have you had the experience of having small shipments from some point outside the State—by small shipments I mean 5 or 6 hundred pounds or less—to Colfax, Mitchellville, and Altoona?

A. Yes; we have received those type of shipments right along.

Q. What is the fact as to whether some of these other carriers render that service to these intermediate points?

A. I don't believe they do unless on certain occasions. They might drop off, if there is a quantity amount.

Q. In other words, the Rock Island Motor Transit service to these points is available on substantially the same basis as it is to Newton?

A. That is correct.

Q. And some of the other carriers will serve Newton but don't serve the other points that I have reference to——

A. That is right.

Q. —on the same basis.

Mr. Howland: You may cross-examine.

Cross-examination.

By Mr. Fowler:

Q. As I understand it, on your interstate shipments of mill work that have exceeded 5,000 pounds in the last few months, inasmuch as the Rock Island can't handle [fol. 1006] them you have turned that business over to other carriers?

A. Yes; they have on certain occasions.

Q. Now, your truckloads of paint, who handled those for you, some other carrier?

A. We have had Iowa Nebraska bring those in and Des Moines Transportation has also made some of those deliveries.

Q. With respect to Newton, does the railroad maintain an agent at Newton?

A. Yes; they do.

Q. And have a freight dock, a railroad freight dock, there?

A. Yes; they do.

Q. Does the Rock Island Motor Transit have an agent there, too?

A. Yes.

Q. And their dock is at the railroad depot?

A. At the west end.

Q. Yes, but it is the same building?

A. Yes; it is.

Q. The pickup-and-delivery truck that furnishes your store or your place of business at Newton the rail-billed freight as well as the motor carrier-billed freight is handled at the same time?

A. That is right.

Q. So that on your incoming freight, irrespective of whether it is rail-billed or motor carrier-billed, it is delivered to you by the same delivery truck?

[fol. 1007] A. Yes; it is.

Q. Now, do you know what the situation is at Colfax? Does the Rock Island railroad have an agent at Colfax?

A. Yes; they do.

Q. And when you are wanting to negotiate at Colfax for Rock Island Motor Transit service, do you call the Rock Island railroad man?

A. I am not familiar on that. I couldn't answer.

Q. The Rock Island Motor Transit doesn't maintain any regular terminal at Colfax?

A. No; not to my knowledge.

Q. Are you familiar with the situation at Mitchellville? Do they have a regular terminal at Mitchellville?

A. They have an agent there.

Q. Do you contact that agent for your Rock Island Motor Transit shipments?

A. I am not just too familiar with the local situation. The local manager does that.

Q. At Altoona, do they have an agent there?

A. Yes; they do.

Q. Are you familiar with that situation?

A. No; I am not. I am not familiar with that.

Q. Is Van Meter located on the Rock Island railroad?

A. Yes; it is.

Q. Are you familiar with the situation there?

[fol. 1008] A. I am not.

Q. As I understand it, you use Rock Island Motor Transit Company motor carrier service extensively?

A. We do.

Q. And you have found it to be very excellent service?

A. Yes; we have.

Q. And you also use the services of other carriers which serve these points?

A. They have made deliveries to us; yes.

Q. You are speaking now of the Des Moines Transportation Company and the Iowa-Nebraska Transportation Company and others that serve those towns?

A. Yes. They work through a merchant's motor freight, or I should say merchant's transfer company at Newton.

Q. In other words, the carriers have a cartage agent there at Newton?

A. That is right.

Q. On your truckload shipments and shipments in excess of 5,000 pounds, you have used the other carriers since this restriction went on?

A. That is right.

Q. And as far as your outgoing shipments are concerned, you have very little need for public transportation?

A. It is a small amount.

Q. And very frequently you buy a rail carload of paint [fol. 1009] and similar commodities and then you distribute them to your various places of business by your own transportation?

A. Well, I would want to correct that a little. We buy very little paint in carloads. We do buy millwork in carloads, but paint comes in truckloads as a rule.

Q. When you buy a big volume, then you redistribute to your various yards by your own truck?

A. Largely by our own trucks.

Mr. Fowler: That is all.

Exam. Carpenter: Redirect. You are excused.

(Witness excused.)

F. A. DUNN was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you state your name, place of residence, and occupation, please?

A. F. A. Dunn, Dunlap Manufacturing Company, Newton, Iowa.

Q. What is your position with the company?

A. President.

Q. What products or commodities does your company manufacture?

A. Advertising specialties, name plates, decals, and things of that type.

Q. What material do you use in that process?

A. Oh, steel, glass, wood, paper, paint.

Q. And from what sources do you get supplies for such work?

[fol. 1010] A. Oh, from all over the eastern part of the country, Chicago, New York, Boston, Philadelphia, Vincennes, Ind.

Q. What transportation agencies do you use in bringing that merchandise into your plant for processing?

A. Ordinarily two, Rock Island Motor and Western Transportation.

Q. Do you have any carload business coming in?

A. We try to stay away from carload. It is mostly truckload.

Q. Do you have any inbound shipments of less-than-truckload quantities?

A. Yes.

Q. What transportation agency have you used to get that in?

A. Both Western and Rock Island.

Q. How long have you been using the Rock Island Motor Transit Company?

A. Ever since it was started.

Q. You say you have been using Western Transportation Company?

A. Yes.

Q. Is that a regular service that you get from them?

A. Yes.

Q. And is there any difference in the type of service or the points served by the Rock Island Motor Transit as compared with the Western Transportation Company?

A. I think that every transportation company that hits Newton has hauled material for us. There are about eight of them as near as I can remember.

[fol. 1011] Exam. Carpenter: Read the question.

(Question read.)

A. The Western and Rock Island both come out of Chicago, and that is where we are interested in mostly, is from Chicago to Newton. Does that answer it?

By Mr. Nolan:

Q. Do you specify——

Exam. Carpenter: Let counsel bring it out.

By Mr. Nolan:

Q. Do you get anything from the west or southwest, Kansas City or the north?

A. We get out of Kansas City. Nothing from the west to speak of. Once in a while a small shipment from California of paint or something of that kind.

Q. How about Kansas City, how does that merchandise move in?

A. It moves Rock Island.

Q. Do you get anything out of the Twin-City gateway?

A. Yes; we get material from the Twin Cities.

Q. How does that come in?

A. Mostly Rock Island.

Q. Do you specify the Rock Island Motor Transit and the Western Transportation Company, or do you leave it an open routing?

A. We specify wherever possible either the Rock Island Motor or Western.

Q. Does it make any difference in the size of shipment as between the two carriers?

A. Here lately, yes.

[fol. 1012] Q. As to which one you specify?

A. Yes.

Q. Why is that?

A. Well, for instance, we get a lot of glasses from Vincennes, Ind. That is taken to Chicago by Hancock truck and then is turned over to another trucking company, and those shipments weigh 22,500 and Western has been bringing that in lately until about a week ago when another company got the business.

Q. You had it specified Western?

A. We always have, but this time they forgot to specify.

Q. Now, in the event that the Rock Island Motor Transit could haul those volume shipments, would the freight be available to them?

A. They would get their share of it; yes.

Q. How about your outbound shipments; what do you have in that respect?

A. Ours are mostly l. c. l. shipments ranging from a minimum up to 2,500 pounds, and those are shipped all over the United States.

Q. What company or companies primarily handle that traffic?

A. That all has to be routed and the Rock Island is checked first. If they can't handle it, then they will try other trucking firms until we find the one that can reach the destination.

Q. Now, does the Rock Island Motor Transit Company offer any facilities of service at Newton that no other trans-[fol. 1013] portation company offers in the way of a local agent, local terminal facilities?

A. They have always been very active in giving us good service, and that has been the main reason why we have been interested in giving them the business.

Q. Do I understand you to say that wherever Rock Island Motor Transit can handle the outbound traffic, you specify that service?

A. Yes.

Q. And if they can't handle it, you then get the next facility, is that correct?

A. That is correct.

Q. What effect would it have upon your business if the Rock Island Motor Transit Company either ceased to do business or materially curtailed its operations in and out of Newton?

A. Regardless of what happens, I think the world still goes on, but it would be more inconvenient to operate that way.

Q. State whether or not your company has developed and expanded its business in reliance upon the service the Rock Island Motor Transit Company had been performing in and out of Newton.

A. There is only one concern in Newton that has a person there all the time you can get information from. There is only one office, and that is Rock Island Motor Transit where you get your information. The rest of them all operate through a merchant's transfer, and when you call [fol. 1014] them up for information they have got to call the Chicago office or the Des Moines office and relay that information, which takes time.

Q. But the point I was trying to develop, has your business been developing in recent years?

A. Yes.

Q. State whether or not part of that development has been due to the transportation facilities that you had at Newton.

A. I think so.

Q. Including the service of the Rock Island Motor Transit Company?

A. I think so.

Q. With what frequency do you have outbound shipments, Mr. Dunn?

A. Every day of the week.

Q. They range all the way from small shipments of a hundred pounds up to several thousand, is that correct?

A. That is right.

Mr. Nolan: I believe that is all.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Fowler:

Q. I think you said your outbound shipments are very rarely over 2,500 pounds?

A. Yes.

Mr. Fowler: That is all. Thanks.

Mr. Nolan: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

[fol. 1015] GLENN ENGLE was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you give us your name, place of residence, and occupation?

A. Glenn Engle, traffic manager for Winpower Manufacturing Company.

Q. Will you tell us what your company manufactures?

A. Gas tractor driven, wind driven generators, and a complete line of specialized agricultural implements.

Q. What are these generators used for?

A. These are generators that go in hospitals, various organizations, as stand-by units when power fails or actually some of them move into communities where there is no electric service.

Q. Then is it fair to say that these generators are the electricity generators of a portable type?

A. That is right.

Q. Such as many farmers had before rural electrification was available?

A. That is right.

Q. You say they are either gas driven, wind driven or——

A. Tractor driven.

wouldn't use the Rock Island Motor Transit service on rail billing. Now, I believe you stated that reason previously on direct examination, why you wouldn't. Would you tell us what the reasons are that you wouldn't use that service?

A. Well, of course, Rock Island rail doesn't have a rail connection with M&StL in Newton. We are located on the M&StL tracks there and also we lease part of our building space from them, and it is just an honor among gentlemen that we give them as much freight as we can.

Q. In other words, if you have any rail freight going, you would give it to the M&StL, is that right?

A. That is right.

Q. But where you don't have to ship by rail, you ship by the Rock Island Motor Transit or some other carrier that is available?

A. That is right.

Q. Now, insofar as the quality of the service given by the Rock Island Motor Transit on rail billing, have you [fol. 1037] looked into that or had any experience with it as to whether that would cause you to hesitate or refuse to give any Rock Island freight to the Motor Transit Company on rail billing?

A. Yes; we have because in attempting to trace a shipment that has gone under rail billing, it practically loses identity between terminals. When a customer has ordered a rotary cultivator or post-hole digger, he wants to know whether he is going to get it tomorrow or 6 weeks from now.

Q. From your experience with both the Rock Island Motor Transit handling rail freight on rail billing and with the M&StL handling rail freight on motor truck, would you say from your experience and from the welfare of your company that a shipment moving on rail billing by motor truck is a satisfactory or not a satisfactory service?

A. No; I think a shipment, whenever it gets over onto a rail billing, you are really penalized because the rail side of it doesn't have the interest in moving that shipment as fast as the motor truck freight.

Q. State whether or not from your experience they have the facilities to expedite the shipment as a motor freight shipment?

A. No; I don't believe they do.

Q. You weren't here the other day when Mr. Hitchens testified as to the various ramifications and things of that character that enter into a rail shipment by motor truck on a rail billing?

[fol. 1038] A. No; I wasn't.

Q. Just one other question. You say that you had a truckload of tires come out you found later by Western Transportation Company. Did that come out from some point east of Iowa?

A. Came out of Akron.

Q. Akron, Ohio?

A. That's right.

Q. Do I take from your answer there that although it was on Western Transportation Company billing it moved by some other carrier?

A. It moved out by cattle truck and I believe the fellow lived up near Sioux City.

Q. Did you have some difficulty in tracing the shipment?

A. Well, the thing that happened, these tires came into Chicago and they came in on a line that didn't want to interline with this carrier so they took and threw all those tires out and threw them into this stock truck. The stock truck hadn't been steamed and cleaned according to regulations and—well, it was hard to tell whether there was more fertilizer or tires when we got them, and we were about a week catching up on that billing because, for some reason or other, the goods got ahead of the billing.

Q. But you say it eventually came on Western Transportation Company billing?

A. Western produced the bills for it.

[fol. 1039] Q. Now, in regard to this steel, you say that ordinarily moves in by one of these livestock haulers?

A. That is right.

Q. On a return load from Chicago?

A. That is right.

Q. What is the fact as to whether or not that livestock hauler may live in the immediate vicinity of Newton or he may live many miles away so far as tracing the party who actually hauled it——

A. That is right.

Q. Tractor driven. You said you also manufacture specialized farm items?

A. That is right.

[fol. 1016] Q. Will you briefly tell us what those are?

A. They consist of post-hole diggers, farm wagons—those are trailers—fertilizer distributors, windrowers, wagon boxes both steel and wood now. That is about all.

Q. Now, in making these generators, do you also provide the power unit such as the gas motor or the——

A. On some of them; yes.

Q. —windcharger on the wind driven?

A. No; that is a competitor.

Q. What are the sources of supply that you use in the manufacture of these different products?

A. Steel is the principal item. Some copper and a little wood.

Q. Do you use any already processed or fabricated articles that go into these products?

A. We get a few forgings. We have castings that are made locally.

Q. Where are your forgings made?

A. Most of them in St. Paul.

Q. Your steel, where does that come from?

A. Greater percent of that will come out of the Chicago area.

Q. How has this steel been moving into your place of business from Chicago?

A. Generally on motor freight.

Q. And what size would an ordinary steel shipment be that you get from the Chicago area?

[fol. 1017] A. That is pretty hard to say because we take mill run and get whatever is available. Sometimes that will be merely a few hundred pounds and sometimes it will be a carload.

Q. Do you have some shipments come in in carload lots by rail?

A. Yes; we do. That is right.

Q. But the majority you say come in by truck?

A. That is right.

Q. Truckload or less-truckload, is that correct?

A. That is right.

Q. Now, prior to any curtailment on the operation of the Rock Island Motor Transit, state whether or not you used the services of the Rock Island Motor Transit Company for the bringing in of steel in various quantities, less-than-truckload to truckload quantities.

A. I think it was well over 90 percent they moved in for us.

Q. State whether or not during that period of time you specified Rock Island Motor Transit as a carrier for such service.

A. We have always routed Rock Island Motor Transit.

Q. Why have you done that?

A. Well, if they could bring us in a trailer load of steel, lots of times we could load that trailer back out with farm machinery and that has been a definite advantage to us.

Q. How about the caliber of service of the Rock Island Motor Transit on different size shipments from the Chicago area as compared with other transportation companies serving Newton?

[fol. 1018] A. When a shipment left Chicago, we could always contact Chicago and know where that shipment was with respect to the road, whether it was in Rock Island, whether we were going to get it in the next couple of hours or whatever that service was.

Q. Have you had any experience with other transportation companies in that respect?

A. Yes; we have.

Q. What has been the caliber of the service of the other trucking companies as compared with the service provided by the Rock Island Motor Transit Company for these operations out of the Chicago area to Newton?

A. It has been very poor.

Q. How about your shipments from St. Paul on these forgings you spoke about; what company has handled those shipments?

A. Rock Island Motor has brought those in, but ironically enough, forgings have become so hard to get in the last couple of years you scarcely ever get a shipment that would be over 5,000 pounds.

Q. Who has been handling those shipments in whatever quantities you get them?

A. Rock Island Motor Transit has been bringing those in.

Q. From Minneapolis?

A. St. Paul.

Q. Has that service been reasonably satisfactory?

A. Yes; it has.

[fol. 1019] Q. Now, what are the size of your outbound shipments and where are they ordinarily destined?

A. We ship to practically all 48 States. In the wintertime, the generators go east over into that electrified area, that is, the stand-by units. Then about the beginning of the year the shipments start to increase on agricultural implements, these dealers adding to their inventory, increasing their inventory, and it is pretty hard to say just what area gets the most of those.

Q. You no doubt have shipments within the State of Iowa?

A. That is right.

Q. And what percentage would you say of your outbound shipments are shipments destined to out-of-State points?

A. Well, the shipments we turn to the common carriers I would say are 60 percent of our total shipments. By that I mean a lot of these dealers in Iowa come in after their own equipment.

Q. I am saying now that the shipments that you make, what percent is for out-of-State points as compared to your total shipments?

A. About 60 percent.

Q. And what would you say the size of those outbound shipments are ordinarily?

A. Well, that is pretty hard to say because one shipment may run a couple of hundred pounds today. Maybe next week it will run 10,000 pounds.

Q. With what regularity do you make those outbound [fol. 1020] shipments? Is it a daily thing or is it only periodical?

A. No; it is quite consistent. We had 1,345 shipments alone out of our place—that is, outbound—in 1950 by way of Rock Island Motor Transit.

Q. What percent of the total shipments would you say that was?

A. That was, I think, 92 percent.

Q. What would you say as to the number of shipments in 1951 as compared to 1950? Do you have any data on that?

A. Because of the restrictions, we had to drop that down to 838.

Q. That was your weight limitation?

A. That is right.

Q. And then what would you say would be the number of shipments you have this year?

A. It is well over 200 right at the present time.

Q. That is by Rock Island Motor Transit?

A. That's right.

Q. Do you make specification on your outbound shipments in regard to the carrier who shall handle them?

A. On the outbound?

Q. Yes; or do you let the first fellow there pick them up?

A. Oh, no. We definitely route those.

Q. With what company?

A. Rock Island Motor Transit whenever we can.

Q. Why?

A. It eliminates three or four trucks back there at the [fol. 1021] back end when everybody is in a hurry to go home, and we know that they are going to get out and are going to be handled right.

Q. Have you had any experience with other transportation companies serving Newton on outbound shipments in regard to the quality of service that these companies have given in comparison with the service given by the Rock Island Motor Transit Company?

A. Yes; we have. We have an item that is rated third class. It is pretty hard to get some of these carriers to haul third class when they can haul first class.

Q. Have you had shipments refused by some of these carriers on outbound shipments for that reason?

A. No; but we have had some that have been prolonged an awful long time down on their dock.

Q. Dock where, in Newton?

A. No; in Kansas City and instances like that.

Q. Have you ever experienced that with the Rock Island Motor Transit Company?

A. No, sir. They have never turned us down.

Q. State whether or not the Rock Island Motor Transit Company handles a low-rated commodity with the same expediency and expeditiousness as they do the so-called higher-rated commodity.

A. I don't think they pay any attention to that.

Q. Now, does the Rock Island Motor Transit service provide any service in Newton in regard to terminal agent, pickup-and-delivery service, dock, rate and information, [fol. 1022] and so forth, that the other motor carriers do not provide?

A. They are the only company operating in and out of Newton that thinks enough of the town to provide their own rate and on dock service.

Q. You say the Rock Island Motor Transit is the only one that provides that service?

A. That is right.

Q. Is that any convenience to your company to have that service available?

A. Well, just for example, Friday we had a customer that had to know the rate on a certain item over in Illinois. If he hadn't known what that was going to cost him, he never would have bought the product. That is just one instance alone.

Q. Was that some customer that lived in Illinois?

A. That is right.

Q. What size item was that?

A. I think it was 1,040 pounds.

Q. Where did you get that information?

A. From the Rock Island Motor agent, rate clerk.

Q. Now, is the Rock Island Motor Transit agent in Newton separate and apart from the Rock Island railroad agent there?

A. Very much so.

Q. Do you ship anything by Rock Island Motor Transit on rail billing?

A. No; not that we can get away from.

[fol. 1023] Q. Why is that?

A. Because we lease property from the M&StL and it just wouldn't be good business.

Q. That is the major reason, is it?

A. Yes.

Q. Have you had any experience in regard to the time of delivery of freight moving out on rail billing as compared with freight moving out on motor transit billing with the Rock Island?

A. You mean Rock Island rail billing?

Q. Yes; but where it might be moved out on Rock Island Motor Transit but on rail billing; have you had any experience with that?

A. Some pretty sad experiences.

Q. Would you say that if the Rock Island Motor Transit was restricted only to handling rail-billed freight, would that service be satisfactory?

A. No.

Q. Why not?

A. Well, because of this restriction that is on, we have put on trucks of our own temporarily to get some of these 7, 8, and 9-thousand-pound shipments out.

Q. That doesn't quite answer the question. Would freight moving out of your place on rail billing but handled by the Rock Island Motor Transit part of the way be a satisfactory service?

A. No; I don't believe so. You still have that rail element [fol. 1024] in there.

Q. You don't like that?

A. That is right.

Q. Have you ever been solicited by the Rock Island Motor Transit agent for rail freight?

A. No, sir.

Q. Or by the Rock Island railroad agent for Motor Transit freight?

A. No, sir.

Q. Now, what would be the effect upon your company's business if the Rock Island Motor Transit Company's services were terminated or materially restricted or restricted as they are today?

A. It would probably affect us in two ways. We will have to put on another truck, and we are going to have to recom-

mend as many of these dealers come in after their own equipment as possibly can.

Q. By the way, what is the volume of business done by your company there at Newton in the course of a year's time, if you care to state?

A. I would rather not give it to you dollar-wise, but I can give you the poundage that we gave to Rock Island Motor in 1950 alone.

Q. All right.

A. That was 1,048,707 pounds outbound.

Q. Do you have any figures on the inbound?

[fol. 1025] A. The inbound for the same year was 249,772 pounds on 336 bills.

Q. How many employees does your company engage?

A. It was 132 on the time clock this morning.

Q. State whether or not your company has developed and improved its business over the years in Newton or, in other words, are you a growing company? Have you grown during the past several years?

A. Here are some figures taken from the 1951 audit made by Wolfe and Company. We had an increase of 356 percent over 1950?

Q. That is 1951?

A. That is right.

Q. How many years has your company been in business in Newton?

A. 25 years.

Q. Has that business developed and grown throughout the years?

A. That is right.

Q. State whether or not in the development of that business the Rock Island Motor Transit Company has been an important factor in the service it has given.

A. There were years I can think of in the 17 that I have been in this traffic end of it that practically no one but Rock Island Motor Transit called on us; that is, gave us service either inbound or outbound.

Q. Now, does any company provide facilities at Newton for the tracing of shipments that may have wandered away or gone astray?

A. No; none that thinks that much of the business given them, I guess.

[fol. 1026] Q. State whether or not an agency available for a shipper which provides a claim service and tracing service and rate service is reasonably essential to the proper handling of the outbound shipments of the company such as yours.

A. We would have to set up our own set of tariffs both in motor and rail if it wasn't for the facilities that are provided to us by the Rock Island Motor.

Q. Do you use the Rock Island Motor rate facilities even though you may have to ship by some other company?

A. Yes; we do.

Q. Do you pay them anything for that other than the other business you give them?

A. It is worth something to know you can get that rate.

Q. But I say you don't pay them anything for that information?

A. Absolutely not.

Q. Isn't it true, Mr. Engle, that where you have a community where there is manufacturing such as conducted by your company that unless you have some agency that has tariffs available, rates available, that you would have to have your own department with all that information?

A. That is right. We would have to maintain one of our own.

Q. Would that cost a considerable sum of money to do that?

A. Yes; it would.

Q. Now, have you had any experience on claims with other trucking company?

[fol. 1027] A. Yes; we have had some pretty sad experiences.

Q. How about your claim experience with the Rock Island Motor Transit?

A. It has been very satisfactory.

Q. You do have claims against the Rock Island Motor Transit, do you not?

A. We have had. It is only natural.

Q. And have you at the present time any claims outstanding that have extended for some period of time with any other trucking company?

A. No; not now.

Q. You have got them all cleaned up, have you?

A. That is right.

Mr. Nolan: You may cross-examine.

Exam. Carpenter: Mr. Fowler.

Cross-examination.

By Mr. Fowler:

Q. You are the head of the traffic department?

A. That's right.

Q. I presume you have available to you in your office the various published tariffs of all the motor carriers as well as all the railroads?

A. No, sir.

Q. You don't maintain any tariff file in your office?

A. Only very meager.

[fol. 1028] Q. There are such publications available?

A. That is right.

Q. And I assume you know how to read them?

A. That is right.

Q. Now, on your inbound steel in volume, how many shipments have you had from the Chicago steel district to Newton since the first of the year in excess of 5,000 pounds?

A. I couldn't give you a definite figure on that.

Q. Give me an estimate.

A. I would say 20.

Q. And were any of those handled by rail shipment?

A. I think there have been five or six.

Q. Were any of them handled by the Rock Island Motor Transit?

A. Not over 5,000; no, sir.

Q. By what other carriers were they handled?

A. Some of them came in under a Snathorst billing on a bull hauler.

Q. By Snathorst you are talking about the Snathorst Truck Line?

A. Of Marshalltown.

Q. All right, go ahead.

A. There has been one or two that came in by P. and W.

Q. P. and W. Truck Line from Albia, Iowa?

A. That is right.

Q. Were there any others?

A. There was some that came in on a Western billing.

[fol. 1029] Q. You are talking about the Western Freight Line now?

A. Western Transportation.

Q. Western Transportation Company.

A. And they came in with bull haulers or stock haulers.

Q. So your steel since the first of the year has been handled either on rail car or has been handled by P. and W., Snathorst Truck Line, or Western Transportation Company?

A. That is right.

Q. Now, have you had any other inbound shipments of any volume since the first of the year other than the steel?

A. Yes. We had a truckload of tires for the fertilizer distributors.

Q. Who handled those for you?

A. It took us about a week to find out, but it finally ended up coming under Western billing.

Q. Western Transportation Company?

A. Western Transportation Company.

Q. I assume you are a hundred-percent booster for the Rock Island railroad and its subsidiary?

A. No.

Q. You are very proud of their service?

A. Rock Island Motor Transit, that is right.

Q. You are a hundred-percent booster for the Rock Island Motor Transit, are you?

A. That is right.

[fol. 1030] Q. Since this restriction came in effect, have you given the business that the Rock Island Motor Transit couldn't handle to these other carriers?

A. That is right.

Q. You preferred to do that rather than to have it handled on rail billing by the Rock Island Motor Transit Company?

A. By Rock Island Motor Transit?

Q. That is right.

A. Well, Rock Island Motor Transit couldn't handle those we have given to these other carriers.

Q. All right, you are aware, are you not, that the Rock

Island Motor Transit has authority to transport rail freight on trucks?

A. That is right, but we are not located on the Rock Island——

Q. Just a minute. If it goes by rail billing——

A. That is right.

Q. Now, you take a point like St. Paul, for instance. You understand that the Rock Island railroad can handle a 20,000-pound shipment for you on truck on rail billing between St. Paul and Newton, Iowa?

A. That is right.

Q. You understand that?

A. Yes; that is right.

Q. You understand that they can handle 20,000-pound shipments by truck from Kansas City to Newton, Iowa?

A. That is right.

[fol. 1031] Q. If it is handled on rail billing?

A. That is right.

Q. You understand that. They can handle steel for you from Chicago to Newton on rail billing and transport it by truck; you are aware of that.

A. That is right.

Q. So with the existing restriction on Rock Island Motor Transit volume shipments, you have preferred to give this business to other common carriers rather than to have it handled by the Rock Island Motor Transit on Rock Island railroad billing?

A. That is right.

Q. All right. Now, you say you are located on land owned by the M&StL railroad?

A. That is right.

Q. Does the M&StL railroad have any truck facilities in Newton?

A. They supplement their rail service with motor carrier.

Q. Do you use M&StL truck service?

A. We never checked to see what shipments go out.

Q. Do you or do you not use the services of the M&StL railroad?

A. We don't know whether it is used on our shipments or not because it is merely supplemental to the rail service.

Q. Well, what is the difference between the M&StL service and the Rock Island service?

A. I believe the charter was granted for operation simply as supplementary shipments or service to the shipments that were billed M&StL.

[fol. 1032] Q. Are you familiar with the permanent authority the Rock Island Motor Transit has?

A. Yes, sir.

Q. You are aware that that is supplemental and auxiliary truck service, too, aren't you?

A. Yes.

Q. And you know that this hearing is to take off those restrictions?

A. Yes, sir.

Q. You are aware of that?

A. That is right.

Q. You mentioned the situation where the Rock Island Motor Transit would handle a truckload of steel for you from Chicago to Newton, and I presume they deliver it to your place of business on the over-the-road truck?

A. That is right.

Q. And then you said that the thing you liked about it was you could turn around and reload that truck with farm equipment?

A. That is right.

Q. You can't do that with any other carrier that serves you?

A. That is right.

Q. Now, with respect to pickup-and-delivery service, as I understand it, the pickup-and-delivery service in Newton is performed by the Rock Island Motor Transit both for its freight as well as that of the Rock Island railroad?

[fol. 1033] A. That is right.

Q. So you have a pickup truck call at your place of business and you deliver to them the rail-billed freight as well as the motor carrier-billed freight?

A. That is right.

Q. And the same thing is true with regard to delivery?

A. That is right.

Q. Does the Rock Island Motor Transit maintain a solicitor at Newton or does Mr. Morrison do all the soliciting?

A. Mr. Fisher and Mr. Morrison.

Q. Mr. Morrison and Mr. Fisher. Mr. Fisher lives in Des Moines?

A. That is right.

Q. And does the Rock Island railroad have a solicitor at Newton?

A. Well, they put one in there about once a month.

Q. Who calls on you as a representative of the railroad?

A. Oh, there is Mr. Lee of the Des Moines office and Mr. Riggs out of the Chicago office.

Q. How does this key-point restriction affect your company?

A. Well——

Q. Take a typical shipment and tell me how it affects it.

A. Supposing we were to put a 10,000-pound shipment over to some point in Illinois that they have previously served. We are unable to do that at the present time because of this restriction.

Q. Well, you could still do it on rail billing, couldn't you?

[fol. 1034] A. We wouldn't; no.

Q. That isn't what I asked you. You could, couldn't you?

A. Possibly; yes.

Q. In other words, this truckload of steel that the Rock Island Motor Transit brought in to your place of business at Newton, you could turn around and reload that with freight in excess of 5,000 pounds on rail billing going back to Illinois, couldn't you?

A. Yes; but we wouldn't.

Q. You could, couldn't you?

A. That is right.

Q. Have you ever had a volume shipment that has been handled by truck on rail billing?

A. No, sir.

Q. But you understand they could handle it that way?

A. That is right.

Q. Do you use the M&StL service to St. Paul or do you use the Rock Island railroad service to St. Paul?

A. I can't think of any time we have used Rock Island to St. Paul, Rock Island rail.

Q. Do you use Rock Island Motor Transit to St. Paul?

A. We do.

Q. Do you use the M&StL coordinated rail service between Newton and St. Paul?

A. We do.

[fol. 1035] Q. Has that service been satisfactory?

A. The M&StL service? Not too satisfactory; no.

Q. Has it been adequate?

A. No.

Q. Has the service of the Rock Island Motor Transit been adequate?

A. Yes, sir.

Q. Is that because of their superior service?

A. That is right.

Mr. Fowler: I think that is all.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Nolan:

Q. Mr. Engle, when you say that the Rock Island Motor Transit service has been adequate between the Twin Cities, St. Paul and Minneapolis, and Newton, do you refer to the service prior to the restriction or the service at the present time?

A. Both previous to the restrictions and at the present time.

Q. Is the service adequate with the restriction on?

A. No; it isn't.

Q. But the service which they have given you has been satisfactory?

A. That is right.

Q. And adequate after you take into consideration the restrictions in regard to size of shipment, is that right?

A. That is right. These restrictions have worked a defi-

[fol. 1036] nite hardship on us in that we have had to make smaller shipments and more frequent.

Q. In other words, you have broken your shipments down to smaller shipments so you could use the facilities of the Rock Island Motor Transit, is that true?

A. That is right.

Q. Now, you made a statement to Mr. Fowler you

Q. —or making claim or something like that, is that right?

A. That is right.

Mr. Nolan: That is all.

Re-cross-examination.

By Mr. Fowler:

Q. Let me get back here a minute. Let's talk about this shipment from Newton to St. Paul. If you put that on rail billing, it is handled by truck from Newton to St. Paul, is it?

A. On M&StL?

Q. No; on the Rock Island.

A. We have never had any like that.

Q. What is the difference in the physical transportation of the freight, whether it is on rail billing or on truck billing?

A. Well, if we make out a billing on a shipment to move motor, they aren't going to take that down and put on a rail billing.

[fol. 1040] Mr. Fowler: All right. Now, will you read the question to the gentleman?

(Question read.)

A. To us there probably wouldn't be any.

Mr. Fowler: That is all.

Redirect examination.

By Mr. Nolan:

Q. State whether or not you have had experience that freight moving on rail billing, although it is handled apparently by the truck line, is as satisfactory service as where it is on motor billing.

Mr. Fowler: That is objected to as repetition and leading.

Exam. Carpenter: Go ahead and answer.

The Witness: Would you restate the question?

Exam. Carpenter: Read the question.

(Question read.)

A. No.

By Mr. Nolan:

Q. Why it is you don't know, is that right?
A. That is right.
Q. Why the service isn't satisfactory?
A. Yes.

By Mr. Fowler:

Q. That is the question I was going to ask. Now, why?
A. I don't know.

Mr. Fowler: You don't know why. That is all.
Exam. Carpenter: You are excused.

(Witness excused.)

[fol. 1041] Burr M. Jones was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you state your name, place of residence, and occupation, please?

A. Burr M. Jones, agent and commercial, Rock Island Motor Transit Company, Newton.

Q. How long have you lived at Newton, Mr. Jones?

A. 39 years.

Q. You are the local terminal manager or agent for the Rock Island Motor Transit, is that right?

A. Yes, sir.

Q. For the record, will you describe the facilities that the Rock Island Motor Transit Company has in the town of Newton?

A. Well, we have an office facility, dock facilities, pick-up-and-delivery trucks, extra trailers, tractors for delivering and picking up in the city, rate clerk, dock employees, drivers, city drivers. Does that answer it?

Q. Yes. Where do you have your dock facilities and your office facilities?

A. 500 West 4th Street North, Newton. It is the west end of the rail freight depot, we have our office and dock, an open dock.

Q. And you have part of the freight depot at Newton for your facilities?

[fol. 1042] A. That is right.

Q. And the railroad has the other part?

A. Partitioned off separately.

Q. Is that partitioned or merely a line?

A. No; that is partitioned.

Q. Are you in full charge of the operation of the Motor Transit Company there?

A. Yes, sir.

Q. Are you under the supervision of the rail agent in any way?

A. No, sir.

Q. Or is he under your supervision?

A. He runs his business, I run mine.

Q. You say you have been there 39 years?

A. That is right.

Q. What is the size of Newton? I don't believe we have got that in the record.

A. Around 18,000 now, I believe.

Q. 18,000?

A. Yes.

Q. Are there quite a few manufacturing companies there?

A. Yes.

Q. And some very substantial ones, is that correct?

A. That is right.

Q. Such as the Maytag Company?

A. That is right.

[fol. 1043] Q. Dunlap Manufacturing Company and Winpower Manufacturing Company, and so forth?

A. That is right; lots of them.

Q. Now, how many employees do you have there?
A. I have four at the present time.
Q. How many pickup-and-delivery trucks?
A. Three city delivery at present.
Q. Are there any other motor transportation companies which provide a local agent and office——
A. No, sir.
Q. —and pickup-and-delivery service in Newton?
A. No, sir.
Q. Now, are you familiar with the operations of freight billed on rail billing that moves out by motor truck?
A. Yes, sir.
Q. And by the way, does your company do the pickup and delivery for both the motor transit company and the railroad?
A. Yes, sir.
Q. Who does the billing for the railroad freight?
A. The rail office.
Q. And if you picked up rail freight, where do you take that freight?
A. We put it on the rail dock.
Q. Assume that you picked up rail freight for motor transportation, on rail billing, where would that be taken for billing?
[fol. 1044] A. It would be taken to the rail dock.
Q. Then your motor transit freight, that would be delivered to the motor transit company dock?
A. That is right.
Q. Do you do any soliciting for the railroad?
A. No, sir.
Q. Does the railroad agent do any soliciting for your company?
A. No, sir; not that I know of.
Q. By the way, you say you are the agent and commercial agent. You do the soliciting for business there?
A. That's right.
Q. State what is the fact whether or not you have had to refuse or turn down shipments on account of the present limitation?
A. Oh, yes; lots of straight loads out of the Maytag Company. I believe we had six that we could have got the

first 2 days we got the 5,000-pound restriction which we were handling into Chicago out of the Maytag Company alone, the two plants.

Q. How about if shipments are still tendered to you in excess of 5,000 pounds for motor transportation?

A. We get those.

Q. I assume that most of the industries there now know what your limitations are, do they not?

A. That is right.

Q. What is the fact as to whether or not you have tendered to you any shipments on rail billing to handle by motor truck.

[fol. 1045] A. No; they don't seem to go for that too much.

Q. Are you able to give us for the record here, a shipment that would be on rail billing that would move by motor truck from Newton to, say, some point over in Illinois, how would that be different than the same shipment moving on moter truck billing?

A. Well, the only trouble you run into on that would be getting into a transfer point where that is destined as far as we could take it and it might go on to a rail point south of Davenport some place we don't make, and then it would have to go back onto a dock and onto a car possibly to the destination. That is where it would slow it down, through the transfer more so than if we were going direct into destination with the truck.

Q. Assuming that you had a shipment originating at Newton moving on rail billing for, say, Rock Island, Ill. Would that shipment move as expeditiously as if the same shipment moved on motor truck billing?

A. It would go through on the same truck so far as the destination of Davenport.

Q. Does that same shipment not have to clear through your local agent here?

A. Has to be unloaded through the local rail agent before delivery is made.

Q. He has to do the billing?

A. Yes.

Q. How does that same shipment have to be delivered?

[fol. 1046] A. It is delivered to destination and definitely has to go back to the rail dock before delivery can be made and they bill it from the waybill.

Q. It has to be delivered from the rail dock?

A. That is right.

Q. Say you had a thousand-pound shipment from Newton to Rock Island, Ill., on rail billing. Could that shipment be picked up by one of your pickup trucks, loaded on a truck at Newton, and delivered to consignee at destination?

A. No, sir. It has to go through the rail desk. They have to check it on and off. They will check it back onto the city pickup before it is delivered. They won't allow us to deliver on a waybill. The bill must be expensed before delivery through the rail office.

Q. That is a rail freight bill?

A. That is right.

Q. Is that due to the different unions or different personnel——

A. That is right.

Q. —between the rail and motor transit?

A. They figure if we delivered it direct off the truck, they wouldn't need the dock men and of course the dock men fight for their jobs.

Q. So then, so far as what could be done isn't done in regard to going straight through to destination where you have a shipment on rail billing, is that right?

[fol. 1047] A. That is right. We might have a truck shipment going to the same place and the rail right behind it going to the same place, but our shipment could go right over on the truck, but that on the rail billing would have to be unloaded and delivered to the rail dock and wouldn't get there until the next day. That could happen.

Q. Is that one of the reasons why you don't have freight tendered to you on rail billing to handle by truck?

A. A certain amount of it, yes, on account of that service. They can get other truck lines probably and take it to the door the same as we do on our truck service since this 5,000-pound maximum.

Mr. Nolan: I believe that is all.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Fowler:

Q. Let's take the situation that Mr. Engle spoke about. He had a truckload of steel from the Chicago steel district to his factory at Newton, which was Rock Island Motor Transit. Now, let's assume you got this restriction on. He has got another truckload he wants to move back to Chicago. So if he is going to give it to you, he ha got to put it on rail billing. Pretty simple matter to call the rail agent up and tell him that that truckload of freight is out there and he would bill it without bringing it back and unloading it?

A. It would be a rare case that he would bill it without checking it.

[fol. 1048] Q. But you don't mean to tell me that he would bring it back and unload it?

A. I have seen them unload it before they would let us deliver it.

Q. A straight load?

A. No, but pretty good sized shipment. I would say if it is a straight load I have never seen it occur, but it could be.

Q. But physically it moves over the same truck to this check point on your line?

A. That is right.

Q. Irrespective of whether it is rail billed or motor truck billed?

A. That is right.

Q. Now, do you conduct any over-the-road operation out of Newton?

A. No, sir.

Q. Do you have any over-the-road service into Newton from the east?

A. We have our regular road truck coming through.

Q. Will you please describe what your over-the-road operation is?

A. Leave Chicago each night 7 to 9, I would say, approximately. Then they arrive at Newton from 7 to 9 the next morning. If they have too much, they will drop

[fol. 1049] the trailer, take an empty and go on. If they don't have too much, they will unload and we deliver on the city trucks.

Q. Does that same truck pick up at your Tri-City terminal for Newton?

A. No.

Q. What would be your service?

A. Tri Cities is the same. Davenport truck, if they have got a lot of Newton, they will load it in the nose. They may peddle that truck at Victor, Marengo, and Grinnell, and pick up an empty at Newton and come on to Des Moines and we hook onto that and deliver it.

Q. In other words, you could either hook onto that trailer with one of your power units and deliver it, couldn't you, from the over-the-road unit——

A. That is right.

Q. —or you could handle it through your pickup-and-delivery service?

A. That is right.

Q. And the operation would be the same irrespective of whether it was rail billing or motor carrier billing?

A. That is right, other than the rail now goes back to the rail dock, every bit of it. It is unloaded on the rail dock; that is right.

Q. Is that because of the conflict between the— In other words, the railroad labor unions aren't going to let the [fol. 1050] Rock Island Motor Transit fellows handle their dock work?

A. If we just drive in and deliver it on the waybill and come on down and let the men bill it, all they need is the clerk.

Q. But that is the reason you do maintain the two forces?

A. I imagine that is correct. I never inquired.

Q. In other words, the Rock Island railroad labor union doesn't want to see all their work taken away from them by the Rock Island Motor Transit, is that it?

A. That looks like it might be.

Q. If it weren't for that situation, all you would need at Newton would be a rail biller, wouldn't it?

A. That is possible. I never looked at it that way.

Q. Now, your service from the east into Newton. First,

I presume that points Des Moines-Newton intermediate are peddled out of Des Moines, is that correct?

A. Newton.

Q. Des Moines, Newton, and intermediate points are peddled out of Des Moines?

A. Well, of course I just have the Newton. They drop a trailer to me.

Q. What is the peddle service to points between Newton and Des Moines?

A. That is on another unit that goes as far as Colfax and returns.

Q. Then, as I understand it, the point——

[fol. 1051] Mr. Nolan: There will be a witness, I think, on that subject.

Mr. Fowler: All right.

By Mr. Nolan:

Q. You don't supervise any peddle service?

A. Other than my night truck leaving, stopping at Grinnell and Iowa City, to drop off, through to Chicago, what little I have on the back.

By Mr. Fowler:

Q. Does the Rock Island railroad have a merchandise car service into Newton?

A. From Burr Oak only; that is the same as Chicago.

Q. What time does that merchandise car arrive in Newton?

A. Well, that depends. Sometimes it might be 2 or 3 days before it gets there.

Q. You mean it isn't regular daily?

A. No.

Q. I presume the merchandise car moves in when it is loaded?

A. That is right.

Q. And when it arrives at Newton is the delivery service performed by the Rock Island Motor Transit?

A. Yes, sir.

Q. And it is taken from the merchandise car over to the rail dock?

A. That is right.

Q. And unloaded at the rail dock?

A. All segregated.

Q. Then what does the rail dock fellow do with it?

[fol. 1052] A. He puts it in the stall to each place. Each customer has got a name and he puts it in that stall, separates the shipments.

Q. Then do you go around an hour later and pick it up again and deliver it?

A. Back onto the pickups.

Q. Do you mean to tell me now—I am not questioning you—do you mean to tell me you take merchandise out of that merchandise rail car——

A. Yes.

Q. —haul it over to the rail dock?

A. It comes direct. We don't touch it. It isn't ours. It is rail. Rail unloads it and puts it on their dock. We come over as a contractor and take it uptown.

Q. Then you don't unload the merchandise car?

A. No; we don't touch it.

Q. The merchandise car pulls right into the freight dock?

A. That is right.

Q. And it is unloaded from the car directly across the rail dock?

A. That is checked into the depot.

Q. That is true of the merchandise car. Supposing you did have some rail freight that wasn't unloaded directly at rail docks. Would you perform the physical operation, unload it for the railroad company?

A. No, sir.

[fol. 1053] Q. In other words, the railroad company then unloads its own merchandise car?

A. That is right.

Q. Except that you perform the delivery service for them at the same time you are delivering your motor transit freight?

A. There are times we shift it. If we have got enough rail to keep that one truck busy, we leave him on rail.

Q. How many pickup-and-delivery trucks do you have in Newton?

A. We have two. Then I have two tractors so I could use two trailers if necessary.

Q. You maintain two pickup-and-delivery trucks and you maintain two extra power units which you use on trailers that are left there?

A. That is right. We have from four to five trailers on hand.

Q. The Maytag shipments you spoke about, what carrier finally handled them?

A. Western is getting most of them.

Q. Western Transportation?

A. Yes; because they are local. They have got trailers there available.

Q. Does the Western Transportation Company leave trailers there?

A. Yes.

Q. Do any of the other carriers do that?

A. Merchants occasionally have one.

Q. How about Des Moines Transportation?

[fol. 1054] A. Never seen any.

Q. But Western Transportation Company and Merchants Motor Freight do have trailers which they deposit at the Maytag dock?

A. No; they are set on a vacant lot and Merchant's Transfer handle them with their tractor for city.

Q. In other words, the cartage agent which I understand is the Merchant's Transfer Company at Newton——

A. Yes.

Q. I believe you said handle the business for most of the common carrier truck lines through there?

A. That is right.

Q. He has a power unit of his own?

A. That is right.

Q. And he will handle these other carriers' trailers back and forth between these larger shippers, is that correct?

A. Yes.

Mr. Fowler: That is all.

Exam. Carpenter: Redirect. You are excused, sir.

(Witness excused.)

Exam. Carpenter: We will adjourn until 9:30 tomorrow morning in this same room.

(At 5 p. m., an adjournment was taken until 9:30 a. m. on Tuesday, March 25, 1952.)

[fol. 1055] TRANSCRIPT OF PROCEEDINGS OF MARCH 25, 1952

APPEARANCES: (Additional)

J. H. Martin, Attorney at Law, 500 Bankers Trust Building, Des Moines 9, Iowa, appearing for applicant.

[fol. 1055a] Exam. Carpenter: Go ahead.

Mr. Nolan: In connection with the testimony of the Witness Earl Mathews of Grinnell, Iowa, owner and operator of a drug store, who testified in this proceeding yesterday, March 24th, he was No. 70, in reference to a shipment handled by the Rock Island Motor Transit Company, from Chicago, Illinois, to his drug store at Grinnell, Iowa, during the month of January, 1952, the applicant offers as explanation of the weight of that shipment, when the witness testified that it weighed, as he recalled, around seven thousand pounds, a copy of the original freight bill, the same being Pro No. 44394 of the Rock Island Motor Transit Company, showing that the fact was said shipment was transported by the applicant company on the 31st day of January, 1952, from Chicago, Illinois, to Grinnell, Iowa, for said witness, weighed 4,716 pounds gross.

Exam. Carpenter: Off the record.

(Discussion off the record.)

Mr. Nolan: A copy of said freight bill has been tendered to counsel for protestants for examination.

Mr. Bradshaw: Off the record.

Exam. Carpenter: Yes.

(Discussion off the record.)

Mr. Bradshaw: The copy of the freight bill so mentioned has been examined, and appears to be in order.

[fol. 1056] Mr. Nolan: Mr. Willenbrock, will you take the stand? We have got a short witness here.

LOUIS C. WILLENBROCK was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you state your name, place of residence, and occupation, please?

A. Louis C. Willenbrock, Mitchellville, Iowa.

Exam. Carpenter: L-o-u-i-s?

A. L-o-u-i-s.

By Mr. Nolan:

Q. Louis C?

A. Yes, sir.

Q. You live where, Mr. Willenbrock?

A. Mitchellville.

Q. Mitchellville. What is your business?

A. Implement dealer.

Q. And what line of implements do you handle?

A. The International.

Q. And you handle the full line of farm implements?

A. Yes, and trucks.

Q. And trucks. Now, how long have you been so engaged in that business?

A. Since 1945.

Q. And you understand, do you not, the nature of the application on hearing here today? That is an application [fol. 1057] by the Rock Island Motor Transit Company to reestablish the service it had before any restrictions or limitations were placed on its operations as a motor carrier.

A. Yes.

Q. Have you been using the service of the Rock Island Motor Transit Company since you have been in business in Mitchellville in 1945?

A. I have.

Q. And for what purpose have you been using that service?

A. For any shipments, for quick service, parts, farm equipment attachments.

Q. And from what territories or areas have you been receiving that service?

A. Chicago, Moline, Fort Dodge.

Q. I am talking about out of State points now.

A. Streator, Illinois, Morton, Illinois.

Q. And you have, do you have and have you had a more or less regular flow of traffic or commerce from those Illinois points that you mentioned, Chicago, Streator, Moline?

A. At different times.

Q. And Morton, too?

A. From time to time.

Q. And with what frequency would you say you have shipments coming into your business from out of State points?

A. Well, I would say two, three times a month on the big shipments.

[fol. 1058] Q. How about smaller shipments, parts?

A. Oh, parts, every couple of or three days, sometimes every day.

Q. Yes, and those shipments have been coming in by the Rock Island Motor Transit Company in the main?

A. That is right.

Q. And how about volume shipments or shipments of considerable size and weight, do you have any of those shipments?

A. Yes, I do have. Of course, tractors have been coming through on trucks now, but not by the Rock Island Motor Transit. They have a flat car, flat trucks.

Q. They come in on special hauls?

A. Yes, that is right. They come on special hauls.

Q. What shipments do you have that exceed say two thousand pounds that come in by Rock Island Motor Transit, or have come in by Rock Island Motor Transit?

A. Elevators, grain elevators.

Q. And do you buy those in quantities of two, three, four?

A. Yes, three and four inside elevators. Of course, maybe two at a time.

designated a rail billed shipment, but it is a small ship-
[fol. 1082] ment, and it moves out of Chicago on a motor transit company, but it is still a rail billing. Now, have you had any experience, do you know the physical movement of that shipment where it is a rail billed shipment but moves on a motor truck?

A. We use that type of service at times.

Q. And what has been your experience as to whether or not such a shipment that is billed on rail billing but moves by motor truck, whether that would move as expeditiously as a motor truck billed shipment?

A. We will take the Rock Island, for example. If you want to deal with the Wabash or Burlington, I can talk about that, too, but we will start with the Rock Island. That shipment is picked up today by the Rock Island Railroad's cartage. The same process takes place. The cartage company, perhaps, delivers it to them tomorrow. Therefore, at the Taylor Street station they bill the merchandise. They sort it and assemble it, and put it into a car, and it is dispatched to Burr Oak, which is a warehouse in the Chicago metropolitan district, at which point it is given to the motor truck. It is brought to Des Moines, Iowa, and instead of that shipment going direct to the consignee or consignor, whichever it might be, it must again go to the warehouse for sorting and billing, etc., and after that it is delivered by the Rock Island Motor Transit or the Rock Island Railroad's trucks. In that instance it is not unusual to have at least one week's service [fol. 1083] on a movement of that kind.

Q. And why that is, you only know it is, is that right?

A. No. No. It is because of the method of processing it. In other words, you have two operations. You have one by the railroad that must carry out its end by sorting and picking up, sorting and billing it and getting it ready to dispatch via the truck line; and the other when you get here, then the railroad still wants to maintain control of that traffic, and through those operations you lose, it is not unusual, four or five days. Another example we use to get to points on the Rock Island Railroad, which are not involved in this proceedings. We will dispatch

Q. Do they exceed, what do they weigh?

A. They will exceed two thousand pounds per elevator depending on the size and the length.

Q. And how about corn pickers and things of that nature?

[fol. 1059] A. Yes, we have those. They usually come in on rail.

Q. They come in already setup, do they?

A. No, they don't come in setup.

Q. Now, from your past experience with the Rock Island Motor Transit Company, state whether or not the service provided by that company to your place of business at Mitchellville for the shipments has been satisfactory or otherwise.

A. They have been very satisfactory.

Q. And state whether or not you need a continuation of the service that the Rock Island Motor Transit gave you prior to any limitation or curtailment of its service.

A. You mean do I need their service?

Q. Yes, the continuation of the service they gave you before there was any limitation or curtailment?

A. Yes, I do.

Q. Now, do you know of any carrier that provides a regular service for both small and big shipments to Mitchellville, Iowa, a daily service from these various points you have mentioned?

A. No, I don't.

Q. And have you had difficulty—well, withdraw that.

Q. Have you had experience with other carriers bringing merchandise in to you at various times not on a regular basis?

A. I have a few times, not very many. I think the Iowa-Nebraska come there a few times, not many times.

Q. Is that on a regular basis?

[fol. 1060] A. No, not on a regular basis.

Q. Do you specify the method by which your shipments come into Mitchellville?

A. I do whenever possible.

Q. And you specify the Rock Island Motor Transit?

A. I do.

Q. What effect would it have upon your business if the

merchandise out of Burlington by the Burlington Railroad through Des Moines, Iowa, for the Rock Island, but the transit company handles it. We do that in order to eliminate all of these delays; and I have in mind our service from Waterloo, Iowa, to Burlington, Iowa, of three weeks, average three weeks, one hundred sixty-four miles by railroad.

Q. And you are on a direct line of the Rock Island between Waterloo and Burlington?

A. That is right.

Q. That is the Minneapolis and St. Louis Line of the Rock Island?

A. That is right.

Mr. Nolan: I believe that is all, Mr. Partridge.

Exam. Carpenter: Cross-examine.

[fol. 1084] Cross-examination.

By Mr. Fowler:

Q. Is Burlington located on the Rock Island Railroad?

A. Yes, it is.

Q. And is that a north and south operation into St. Louis?

A. No, no. The Rock Island Railroad terminates at Burlington, Iowa, but they have joint arrangements with the Burlington Railroad into St. Louis. It operates as the Twin Zephyr passenger train from Burlington to St. Louis and St. Louis to Burlington, and from there to the Twin Cities would be the Rocket.

Q. Does the Rock Island presently serve Burlington, Iowa?

A. No, sir, and the reason it is not——

Q. I didn't ask you that. I asked you if they were.

A. No, sir. No, sir.

Q. Now, your interest in this seems to be shipments which move from Burlington to points located on U. S. Highway 6, particularly these smaller communities?

A. In this issue, in this proceeding.

Q. And these shipments become interstate in character by reason of their physical movement through Illinois?

Rock Island Motor Transit should be terminated or materially curtailed, the service it has been giving you?

Mr. Bradshaw: I have an objection to that.
Exam. Carpenter: That is off the record.

(Discussion off the record.)

A. Well, it would kind of hinder my business quite a little.

By Mr. Nolan:

Q. Do you know of any transportation company that would give you the same service you have been getting by the Rock Island Motor Transit?

A. I don't know for the simple reason the Rock Island Motor Transit comes in there every day, and if I have got anything to ship all I need to do is go there to the depot and tell the driver to stop. I have some parts I want to ship or to return.

Q. You have not only inbound shipments but back to the factory?

A. That is right.

Q. And how often do you have shipments outbound back to the factories?

A. I would say twice a week.

[fol. 1061] Q. And are those parts you send in to get repaired?

A. Parts to be repaired. Some broken and to be returned.

Q. Or new parts?

A. That is right.

Mr. Nolan: You may cross-examine.
Exam. Carpenter: Mr. Bradshaw.

Cross-examination.

By Mr. Bradshaw:

Q. Mr. Willenbrock, as I see this, on your shipments under two thousand pounds, they all come in by Rock Island Motor Transit? At least you specify Rock Island Motor Transit, is that right?

A. Yes, practically everything comes in by Rock Island Motor Transit.

Q. And on that type of shipment they are rendering a pretty satisfactory service so far as you are concerned?

A. Very good.

Q. But there is the Iowa-Nebraska that comes in once in a while on the same type of shipment?

A. Not too often. I don't think I have saw them there not over three times since I have been in business.

Q. But they have been to your place on these smaller shipments?

A. Yes.

Q. Now, on your tractors, where do they come from?

A. From Moline.

Q. And are they brought in by company trucks, or manu-
[fol. 1062] facturers' trucks.

A. Sometimes they come in by rail and sometimes they come in by trucks.

Q. But they get there all right?

A. That is right.

By Exam. Carpenter:

Q. Are they manufacturers' trucks or other trucks?

A. No, they are not manufacturers' trucks. You mean the International trucks? No.

By Mr. Bradshaw:

Q. Did you notice who brought them in?

A. No.

Q. You haven't paid any attention to that?

A. No, I haven't paid any attention to those.

Q. In other words, you haven't any problem in that respect. How about your elevators, who brings those in?

A. Well, sometimes the companies that manufacture the elevator if they have trucks available, they bring them in.

Q. And can the same thing be said as to tractors, you haven't had any trouble getting those in?

A. No, we haven't had any trouble getting tractors in.

Q. And I don't believe you mentioned any other heavy equipment, that is equipment over two thousand pounds, other than elevators and tractors?

A. Well, yes, I have other equipment coming in, different places, lime spreaders.

[fol. 1063] Q. What do they weigh?

A. Of course, they wouldn't exceed two thousand pounds.

Q. That is what I mean, over two thousand pounds. Now, you mentioned that you go to the depot and tell him to have the driver stop. Who do you mean by "him"?

A. The depot agent.

Q. Is that the rail depot agent?

A. That is right.

Q. Does the Rock Island Motor Transit keep a pick-up truck there in Mitchellville?

A. You mean a small truck? I don't know of any.

Q. A delivery truck that comes to your door.

A. I don't know of any.

Q. All of your dealings are direct with the station agent?

A. That is right.

Q. And when you mean to have somebody pick it up, it is the driver on the truck coming through?

A. Well, the driver on that truck usually comes through a certain time each morning, and we will watch for him and stop him if we have anything to ship.

Q. Do you ever have occasion to find out rates from the station agent?

A. No, we don't care about that.

Q. You don't care about that. Who do you pay your freight to?

A. Sometimes to the Rock Island depot agent and some-[fol. 1064] times to the driver. It depends on where it comes from.

Mr. Bradshaw: That is all.

Redirect examination.

By Mr. Nolan:

Q. Now, isn't it true, Mr. Willenbrock, any freight that comes in by rail you pay the depot agent?

A. By rail, yes.

Q. And any freight that comes in by motor truck, on motor truck billing, you pay the driver?

A. In a few cases we paid the depot agent when it come in by truck.

Q. You leave the money there?

A. That is right.

Q. Now, what is the fact there are some advantages to get, say, for instance, elevators or lime spreaders, or shipments of equipment of that kind in quantities of three or four in regard to price? Do you get a better price when you buy it in quantities of three or four, or something like that?

A. So far as the company is concerned?

Q. Yes, you get a special discount if you buy more than one from some of these companies?

A. No.

Q. Now, on some of your tractors, you say those come in on flat bed trucks?

A. That is right.

Q. You don't know whether they are company owned [fol. 1065] trucks or some special carrier?

A. No, I don't.

Q. Like an automobile transport company? Of course, a tractor, you don't just order over night and expect it the next morning?

A. That is right.

Q. Ordinarily a tractor is something that is planned ahead. You make a sale and the customer doesn't expect to get it for a few days.

A. That is right. The fact of the matter the tractors haven't been so numerous one dealer gets a carload at a time in the last three or four years. If we get a car there at Mitchellville, maybe two or three other dealers get a tractor, and the same way if it is shipped to Des Moines.

Q. Mr. Willenbrock, on repair parts particularly, that is where you need the fast service?

A. That is right. That is where I need fast service.

Q. A tractor, combine or corn picker broken down out in the field, you have to get that fixed right away?

A. That is right.

Mr. Nolan: That is all.
Exam. Carpenter: Recross?
Mr. Bradshaw: That is all.
Exam. Carpenter: You are excused.

(Witness excused.)

[fol. 1066] F. L. PARTRIDGE was sworn and testified as follows:

Direct examination,

By Mr. Nolan:

Q. Will you state your name, place of residence, and occupation, please?

A. F. L. Partridge, Executive Secretary and Director of Traffic of the Burlington Shippers' Association, 214½ North Fourth Street, Burlington, Iowa. In this organization we represent shippers in the cities and towns of Fairfield, Ottumwa, Keosauqua, Fort Madison, Keokuk, Monmouth, Illinois, and Burlington, Iowa.

Q. Now, Mr. Partridge, just tell briefly what your organization consists of and what it does.

A. The Burlington Shippers' Association was organized as a corporation under the Iowa Code in 1919. The sole purpose was to act, and we do act, as a clearing-house of transportation for those shippers in southeastern Iowa. As at that time and at the present time there are very few firms that can afford or have a sufficient amount of business to maintain a traffic department within their own organization. Therefore, this corporation took care of those needs for all. It is a non-profit organization and it has membership dues only.

Q. And how long have you been associated with the Burlington Shippers' Association?

A. I will have completed my twelfth year April 15, 1952.

Q. And you are a manager of the Association?

[fol. 1067] A. Yes, sir.

Q. Or executive officer of it, is that right?

A. Yes, sir.

Q. How many members do you have in your association?

A. Seventy-five.

Q. And those seventy-five members are not only from Burlington but from these other places you have spoken about?

A. That is right, yes, sir.

Q. Now, will you describe briefly for the record what industries your Association represents in these different towns, name the industry and the type of industry that they are.

A. You say "name the industry"?

Q. Yes. You don't need to name them all but the principal ones in Burlington and the other points.

A. In Burlington, Iowa, we represent the Murray Iron Works, who manufacture steam engines and turbines. We represent the Campbell Chain Company that manufactures Weed Chains, car chains. We represent the Midwest Biscuit Company who are manufacturers of bakery goods. We represent the Klein Manufacturing Company, who are manufacturers of poultry and barnyard supplies. We represent the J. I. Case Company, who are manufacturers of agricultural machines, only no tractors. We represent the Chittenden & Eastman Company, the Leopold Company, and the Northwestern Cabinet Company, who are manufacturers of furniture and desks. We represent various distributors. I mean by that distributors of mer- [fol. 1068] chandise, such as the Lagomarcino-Grupe Company, John Blauls Sons Company, in the food line. We represent the Drake Hardware Company, who is a hardware concern. We represent the Schramm & Schmieg Company, who is a wholesaler of dry goods and notions. Then in Burlington we represent a number of small retailers and food brokers of that type.

Q. What is the population of Burlington?

A. The 1950 population is a little less than thirty-four thousand in the immediate area, but within ten miles, which takes in the Iowa Ordnance Plant and the Flint Hill Manor, which is a Government building project, the population is approximately sixty thousand.

Q. Approximately sixty thousand?

A. That is right.

Q. And you have two Federal installations there, the Ordnance Plant?

A. The Iowa Ordnance Plant, and in connection with that they maintain this housing project.

Q. Oh, I see.

A. And in Fairfield we represent the Dexter Company, who are manufacturers of household laundry appliances. We represent the Fairfield Glove Company, who are manufacturers of the glove line. In Ottumwa we represent the Kenmar Manufacturing Company, who are manufacturers of furniture. Their line consists of approximately six per cent of a plastic line, which plastic is not manufactured [fol. 1069] in Burlington. At Keosauque, Iowa, we represent the Barker Equipment Company, who are manufacturers of dairy supplies such as steel wire bottom carriers. In Fort Madison we represent the Interstate Wholesale, Inc., which is a lumber and building supply concern. We represent the Midwest Wax Paper Company, who are manufacturers of waxed papers and all lines of wrapping papers, bread wrappers. At Monmouth, Illinois, we represent the Ralph Wells Company, who produce what is called a toasted wheat—corn flake, that is ussed as a carrier agent for animal and cat foods. They also manufacture corn oils, soybean meal, etc. In Keokuk we represent firms there, other than what I have named as the line of endeavor I have named in these other places, there is a Thomas Caster Company, who manufactures platform, platform trucks and casters. There is the Carbide Company that manufactures carbide, and Dadamp and Company, who are in the business of bee supplies, and the furnishing of candles for particularly the Catholic Churches, etc. I think that covers it generally.

Q. Now, Mr. Partridge, when you say you represent these companies, you mean your association handles their traffic problems, routing, rate matters, and things of that character?

A. Yes, sir.

Q. And state whether or not these companies which you have enumerated in these various towns and cities have shipments going into the flow of traffic in interstate commerce.

[fol. 1070] A. Yes, sir.

Mr. Bradshaw: May I inquire?
Exam. Carpenter: Yes, sir.

By Mr. Bradshaw:

Q. By what authority do you appear at this hearing?

A. Our organization is operated unlike various organizations. There is only one other organization I know of in the country, and that is the Fort Smith-Van Buren, Arkansas, organization. They have placed this responsibility in my hands, and I need no authority from anybody to represent these people, individual authority to represent these people of the particular organization.

Exam. Carpenter: Have you finished?

By Mr. Nolan:

Q. What has been your experience and training in traffic work, Mr. Partridge?

A. On May 19th I will have completed forty years in transportation, starting in 1912 or 1911 with Montgomery Ward in Kansas City. I have served railroads, motor trucks. I have operated a motor truck. I have handled purchases and traffic for industries, and for the past thirty-two years I have been connected with two firms, of which twelve is in my present position.

Q. Now, you understand the general nature of the application on hearing here today, do you not?

A. Yes, I think so.

[fol. 1071] Q. And you have participated in many such hearings, have you not, representing your association and the members thereof?

A. I have. I am a registered practitioner.

Q. And you also have represented carriers, have you not, in matters of this kind?

A. Yes, sir.

Q. Now, I will ask you first whether or not there are members of your association and shippers in Burlington, Iowa, who have shipments coming out of Burlington, or where the bulk is broken in Burlington, going into the territory served by the Rock Island Motor Transit Company?

A. We have each. In order to get to this territory served by the Rock Island Motor Transit, those shipments are dispatched from Burlington via the H. B. Green Transportation Line or Dohrn on the Illinois side into the Tri-Cities, where they are inter-changed, which makes that type of shipments interstate traffic. We do have bulk shipments, such as cargoes of sugar coming in by boat, which is put in storage and dispatched out via motor truck or rail, of which those shipments are interstate shipments because those types of shipments are flagged out to destination when they are shipped from point of origin or factory. There are various other commodities, such as chemicals, handled in the same way, coffee, and breakfast foods. In fact one of the pronounced movement of traffic, and I don't say this to be smart, I apologize first, is Kotex.

[fol. 1072] Q. Now, Burlington is located on the Mississippi River?

A. That is right.

Q. And the river up that far at least is navigable, and used for barge line transportation?

A. That is correct.

Q. You have a public dock there, do you?

A. We do, sir.

Q. Now, you say there is a flow of traffic originating at Burlington, destined to the interior Iowa territory that moves either by Dohrn Transfer Company or H. B. Green on the east side of the river up to Rock Island and Moline?

A. That is right.

Q. Is that the natural movement of the freight? Is there any difference in mileage that way than on the Iowa side?

A. The mileage between Burlington, Iowa, and the Tri-Cities, we will say Davenport via the route I take is two miles less on the Illinois side than on the Iowa side. We will say the mileage is comparable.

Q. Yes. Now, is there a regular flow of traffic by that course, or via that routing through the Iowa territory, Davenport to Omaha, Nebraska, and the adjacent points?

A. Yes, sir.

Q. And also north from Des Moines towards the Minnesota line in the Minnesota territory?

A. There is, and I neglected to state we represent

[fol. 1073] McKesson & Robbins, who maintain a warehouse facility at Des Moines and Dubuque. Therefore, we know about these shipments, and we direct a great number of those shipments from the Des Moines warehouse.

Q. And, likewise I will ask you, if there are shipments moving from the points as the Twin Cities, Omaha, Des Moines, by the same routing back into Burlington, Iowa, and into the southeastern Iowa territory?

A. There is, yes, sir.

Q. Now, what would you say as to the regularity of the flow of the traffic, both outbound from Burlington into this territory, and from the southeastern Iowa territory, and in the reverse direction?

A. Specific commodities, we will say. Take, perhaps, bakery goods and soap products first. There is a regular movement and those are small shipments. Other commodities, there are movements, but they are not so frequent. When they are coming from Omaha or from the Twin Cities, then those shipments are less frequent because the flow of traffic is out and it is that traffic that we manufacture.

Q. Now, about your shipments outbound from Burlington over the Illinois routing, state whether or not there are shipments going into the small, interior points and not necessarily the key points for delivery?

A. There is, yes, sir.

[fol. 1074] Q. And is there more or less a regular flow of such traffic?

A. There is.

Q. Now, what transfer and interline connections are the Dohrn Transfer Company and the H. B. Green Company making at the Tri-Cities for interior Iowa delivery?

A. Traffic out of Burlington this afternoon is into the Tri-Cities tonight and interchanged with the Rock Island Motors, and into Iowa City or Des Moines, for example, it is the next day.

Q. Yes, but what line have they been interlining with for the small towns?

A. Oh, the Rock Island Motor Transit.

Q. State whether or not in your opinion, Mr. Partridge, there is a need for the continuation of the operations of

the Rock Island Motor Transit Company as it was operated before any restrictions were placed on it insofar as serving Burlington and the industries in southeastern Iowa that you represent.

A. The need today is more pronounced that it was years ago. When I speak of service, that doesn't mean the dispatching of a unit or a truck over the highway. I am thinking of all other elements that go to making up service. That gets into the personnel you deal with, the claims, the way they handle their business, the rate quotations, the flag-outs of these particular carriers and how they handle their customers, and I have found, or I know this definitely so, that the Rock Island Motor Transit needs is more pronounced for this reason; that they do not [fol. 1075] have numerous of flag-outs in rates. In other words they won't except this type of traffic because it is balloon freight or they won't except this type of traffic because it might carry Class 40. They will take any traffic that is offered to them. Therefore, it doesn't become necessary for us to search through many tariffs to determine what they can or can't handle. Now, that isn't true with most of the other carriers. Most of the other carriers have published in all of their tariffs a great many of these eliminations, these flag-outs, and what I mean by flag-outs, it is hidden away, and we won't handle traffic in connection with the Rock Island Transit. The Rock Island Motor Transit handles Class 70, whereas the Rock Island would pull Class 40. Then, we would have to, under the present restrictions, if we had two shipments setting on our dock today, say one was five hundred pounds and the other was seven thousand pounds, it would be necessary for us to find some bad carrier to handle the seven thousand pound shipment, and, therefore, we would be bothered with hunting up the second carrier; whereas the one carrier, the Rock Island Motor Transit could serve us the way we should be served. Then, we run into this. The various other carriers where they will accept a shipment, say Dohrn might accept a shipment and tender it, perhaps, for example, to the H & W. Well, the H & W, because the traffic was of such dimensions or balloon type, they have no equipment and can not handle it; and that

traffic will be kicked around for two or three weeks, and [fol. 1076] that wouldn't be true if we had the continuous service by the Rock Island Motor Transit, or Dohrn, or Green.

Q. Now, what experience have you had in regard to making so-called small shipments to the smaller points in the interior Iowa territory?

A. Insofar as the movement in connection with the Rock Island Motor Transit Company, we have no problem there if we can continue that service, I mean to enjoy that service. Now, we have a bad proposition we run into many places where we run into a three line haul. Therefore, we are penalized with a combination of rates.

Q. What do you mean, before the limitations?

A. —of two carriers, because the tariff provides this carrier or that carrier will not participate to exceed a two line haul, and particularly our bakery people. Their competition has been hit because they have to meet the competition of large manufacturers who are in operating their own delivery system.

Q. You don't mean your bakery people ship out bakery goods ready for consumption?

A. Definitely so, crackers, cookies, things of that kind.

Q. You don't mean ship out bread?

A. Yes, they do.

Q. By motor carrier?

A. Yes, they do.

[fol. 1077] Q. Now, of course, you haven't had any experience with the inability to get shipments to small towns, these interior Iowa points, because you have had the Rock Island Motor Transit's service?

A. That is right.

Q. You are familiar, are you not, with carriers in Iowa, particularly the interior across No. 6 say, and the service they give? You have been investigating that, observing that?

A. Yes. In fact I have grown up with the motor truck industry since the middle 20's. Just recently I was passed notice from the National, where they informed their carriers in Cedar Rapids, Iowa, after such a date they would not accept any interchange traffic. Now, there is a service——

Q. That is the National Freight Lines?

A. Yes. There is a service where, if the interchange carrier had not passed that to us, we would have no knowledge of because National doesn't give us that information, they are going to pull the pin on us right then.

Q. I am going to ask you, Mr. Partridge, if it is necessary to perform a complete motor carrier service, that the carrier be enabled to interline, exchange freight with other carriers?

A. There is no question about that in order to have an economical operation and an efficient operation, and give the shippers the type of service for which they are paying. Heavens knows we are paying plenty today, and that carrier should not be restricted within the scope of his authority. It should be left wide open to handle any traffic, any kind of traffic within the said limitations of [fol. 1078] explosives, etc., and the quantity of traffic as to their ability to handle, and, unless you do that, unless a carrier is given that authority, you take away from them the flexibility of motor truck transportation which the shipper should enjoy and it becomes an unprofitable operation; which ultimately you would have to discontinue the operation or curtail it, perhaps, to triweekly. When I say "tri" I use the word very liberally. We have had experience with the word. It is go up one week and try to get back the next. We find this, and it is growing on us each day. Going back to the middle 20's, the motor truck industry took away from the rail lines the traffic, L. C. L. traffic. Now they don't want that traffic. They embargo. We make a shipment to Cow Point, Iowa, and when the carrier gets it up here, we find out the connecting lines have embargoed the traffic when there is not enough traffic. It is costing too much money to handle it, and we find many, many of these small points are embargoed, and if we are going to have the service, that is the type of service, the little merchant on which we depend to make our industry move. It is not so much the larger points. The trucking industry seems today to be more interested, I am not criticising, I am making the statement of fact, they are interested more in closed door operation and truckload operation because it turns them money enough to keep moving.

Q. These truck lines have an operating problem, do they not?

[fol. 1079] A. There is no question.

Q. There is an economic problem there?

A. There is no question about it, and that economic problem faces the shippers every day.

Q. Now, from your experience as a traffic man for forty years, a truck operator, and representing shippers and so on and so forth, do you have an opinion whether or not it would be feasible to continue the service which has been offered by the Rock Island Transit Company to these small points along and adjacent to Highway No. 6 if the Rock Island Motor Transit Company was restricted to a five thousand pound maximum shipment and a key point restriction say between the Tri-Cities and Omaha so the traffic couldn't move through the Tri-Cities to Omaha?

A. Definitely not, and for this reason, I and my staff directing the traffic, if the Rock Island Motor Transit Company was restricted, we certainly wouldn't spend our time attempting to give them what business we could, and then depend on the other fellows to take the more profitable business. We wouldn't have the time to work out all of their problems. That is a carrier's problem. Therefore, we would take the lines of least resistance and we would direct all of the traffic by the carrier that could handle either the small shipments or large shipments through the restriction of, rate restrictions or flag-out restrictions that might enter into the rates and charges.

Q. Do you know of a carrier that gives the service to [fol. 1080] all of these points the Rock Island Motor Transit Company has been giving?

A. I do not.

Q. Now, Mr. Partridge, have you had any experience in regard to the quality of service provided by a motor transit with rail billed freight as compared with the quality of service provided by truck billed freight?

A. Yes.

Q. And what has been your experience in that particular?

A. If I may I will use a concrete example, on rail freight moving from Chicago, Illinois, to Des Moines, Iowa. Before I make this statement I want to make this point very

clear, that in my work in Burlington, Iowa, we trace during a year's time hundreds of shipments. We know where those particular shipments are delayed, why, and all about it. A shipment picked up in Chicago today by a cartage company is taken to the Taylor Street station.

Q. Now you are speaking about a rail billed shipment?

A. That is right. It is picked up by the cartage company today, and, perhaps he has picked up a number of other shipments on that unit, and he dispatches that truck to his own dock where he processes that freight and delivers the Rock Island Railroad their portion, the Wabash, etc., perhaps the next day. Well, if the next day happens to be Saturday or Sunday, then it is Monday. If Monday happens to be too much tonnage, then it is Tuesday. [fol. 1081] Any way, when the traffic gets to the Taylor Street station, it is billed. It is processed. It is loaded into various bulk-break cars, and that car is pulled from there and put into the train, and it is dispatched to Silvis, Illinois, where they have their break-up point, at which point the car, it is not unusual for it to be delayed in the Silvis yards two or three days. When it gets over to the East Des Moines yards it meets with another delay, so when we get a number of shipments into Des Moines, there has been a lapse of ten days from Chicago. If we were going to Burlington, Iowa, on that interstate traffic, we would meet at least a week's delay in Cedar Rapids, and when we get on the branch coming to Burlington, try to get that service, and it takes all of the way from three to four weeks on local freight into Burlington.

Take that same shipment, picked up by the Rock Island Motor Transit Company in Chicago today. That is processed, and there is no reason, if it is properly handled, why it shouldn't make delivery in Des Moines this afternoon, not later than tomorrow.

Q. If it was picked up yesterday, it should be in here today?

A. Yes. It might get in too late to make delivery this afternoon or——

Q. The second morning?

A. Yes.

Q. Now, taking the same shipment, but the shipper has

Company to your company in the past was reasonably [fol. 1105] essential and useful to your company?

A. It was essential.

Q. And state whether or not a continuation of the service of the Rock Island Motor Transit Company, as it has been given to your company in the past before these limitations, is reasonably necessary for the proper conduct of your business?

A. It is necessary.

Q. Now, you do have other sources, other transportation companies, do you not?

A. Yes.

Q. But do any of these transportation companies afford the same service, and quality of service, to your company out of Fairfield the Rock Island Motor Transit Company has provided in the past?

A. To some points they do and to other points not.

Mr. Nolan: I believe that is all.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Fowler:

Q. With respect to your incoming shipments from Chicago to Fairfield, how are they presently handled?

A. We have the Rock Island and the C. B. & Q. rail, and we have numerous truck lines.

Q. And are you using the services of both the Rock Island Railroad and the C. B. & Q. Railroad and the various established common carriers?

[fol. 1106] A. Yes, sir.

Q. And do you also use the Burlington Truck Line service?

A. Yes.

Q. Now, with respect to outgoing shipments from Fairfield to Chicago, by what transportation agency are you now being served?

A. We use practically all lines.

Q. And with respect to Omaha is the situation substantially the same?

A. The Rock Island Motor gives better service to points west and to the Twin Cities, but we route out of Burlington to the Sturm and Burlington-Chicago to Omaha.

Q. You say the Rock Island Motor Transit is giving better service from Des Moines to Minneapolis and Des Moines to Omaha in your opinion?

A. Yes.

Q. There are other carriers, however, available for that service, aren't there?

A. That is right.

Q. And a shipment moving from Minneapolis to Fairfield over the established independent motor carrier would undoubtedly move to Des Moines, would it not, and then on down to Fairfield?

A. It might go to Rock Island and down.

Q. What motor carrier lines have you used between Minneapolis and Fairfield?

A. Well, we use Keeshin, Keeshin Truck Line mainly, [fol. 1107] and Rock Island Motor.

Q. And what truck lines, independent truck lines have you used between Fairfield and Omaha?

A. We have used Sturm, Burlington Truck, and Rock Island Motor.

Q. Now, using the first of the year as a critical date, give me some estimate of the number of shipments you had moving to Chicago in excess of five thousand pounds.

A. I would say twenty-five.

Q. And how have those been handled?

A. Well, mainly by rail.

Q. Have you used other common carriers?

A. That is right.

Q. Now, using the same date and asking for your estimate only, how many shipments in excess of that limit have you had moving to Omaha since the first of the year?

A. I would say fifteen or twenty.

Q. And does the same situation obtain, you use either the Rock Island Railroad or the Chicago, Burlington & Quincy Railroad, or the Burlington Truck Line, or you have been able to get some other carrier to handle it for you?

A. The service isn't as good, but we have used those.

Q. But you have used those, but it isn't the same quality

A. That is right.

Q. And the carrier that transports them from the origin at Burlington to the interline point at the Tri-Cities is the Dohrn Transfer and the Green Transportation Company?

A. That is right.

[fol. 1085] Q. At which place they are interlined with the Rock Island Motor Transit Company for delivery to these small communities located on U. S. Highway 6?

A. Yes, sir.

Q. Now, with respect to motor carrier service other than that owned by a railroad, you now have common carrier service from Chicago to Burlington?

A. That is right.

Q. From St. Louis to Burlington?

A. That is right.

Q. From Omaha to Burlington?

A. That is right.

Q. And, in fact, from all of the larger out of State points to Burlington in interstate commerce you now have adequate motor carrier service?

A. I wouldn't say that we have because I don't know what those other out of State points you have in mind.

Q. Communities of the type I mentioned, Chicago.

A. If you will restrict:

Q. Omaha, St. Louis, just those three. That will do for the purpose of my question. What is your motor service between Minneapolis and Burlington?

A. Between Minneapolis and Burlington, the one direct line is Watson through Omaha. The two line haul, the most direct is Merchants and Hedrick Motor Transfer through Cedar Rapids.

[fol. 1086] Q. Merchants to Cedar Rapids, and Hedrick from Cedar Rapids to Burlington?

A. That is right.

Q. And the Merchants to the Tri-Cities and Dohrn?

A. We don't use it that way.

Q. You are aware there is a service there?

A. Yes, and there is also service by the Rock Island Motor through Des Moines, and the B. T.

Q. But with respect to Minneapolis again, you are aware the Merchants have a service from Minneapolis to Cedar Rapids and Minneapolis to the Tri-Cities, at either of which points there could be an interline to Burlington?

A. That is right.

Q. At the present time what service are you using from Minneapolis to Burlington in interstate commerce?

A. Watson Bros. Transportation Line.

Q. Now, the Chicago, Burlington & Quincy Railroad have their main line through Burlington?

A. That is right.

Q. And does the Burlington Railroad maintain a truck service which is auxiliary and supplemental to its rail service?

A. I am not familiar with the connection, as a statement of fact, between the Burlington Railroad and what is talked about to be a subsidiary of the Burlington Truck Lines.

Q. That is the Burlington Truck Lines?

[fol. 1087] A. Yes.

Q. And the Burlington Truck Lines serve Burlington?

A. That is right.

Q. And, of course, has a rail service, or a motor carrier service, along the main line of the Burlington Railroad from Burlington to Ottumwa?

A. No, sir, they do not.

Q. Don't they maintain any service between Burlington and Ottumwa?

A. You mean in connection with rail or Burlington Truck Lines?

Q. A coordinated service?

A. Coordinated service, they do not at this time.

Q. They don't handle any shipments by truck?

A. Not for the rail line between Burlington and Ottumwa. They do handle for their own account, the Burlington Truck Lines.

Q. Does the Burlington Truck Line operate a truck service? That would be an intrastate movement, of course, wouldn't it?

A. Yes, that is right.

Q. Is there any occasion where you have to use the

services of the Burlington Truck Line in connection with your interstate shipments?

A. Where to?

Q. Any point.

A. In connection with rail? Or read the question.

(Question read.)

[fol. 1088] A. I would eliminate the "occasion" and say the answer is yes, we do use them.

Q. But the Burlington Truck Line doesn't operate up into the territory that is involved in this application?

A. They operate to Des Moines, Iowa, yes, sir.

Q. That would be an intrastate movement?

A. And an interstate movement out of Chicago.

Q. Well, all right. Let's take an interstate movement. Do you use the Burlington Truck Lines from Burlington to Des Moines with respect to your interstate shipments?

A. No, sir, we do not.

Q. You have that service available?

A. We have it after a fashion.

Q. And what service do you use from Burlington to Des Moines on your interstate shipments?

A. On the interstate?

Q. Interstate.

A. Interstate. I stated on direct it was Dohrn and Green and the Rock Island Motor Transit.

Q. In other words, then, you find that the service of Dohrn and Green to the Tri-Cities, where it is interchanged with the Rock Island Motor Transit Company, for delivery to destination at Des Moines is a preferable service to that which is now furnished by the Burlington Truck Lines?

A. That is correct in the matter of time in transit.

[fol. 1089] Q. Although the Burlington Railroad does have an affiliate known as the Burlington Truck Lines that operates direct from Burlington to Des Moines?

A. I know nothing about the affiliation. I have never seen the decrees.

Q. All right, then, let me put it this way. The Burlington Truck Lines does have a truck service from Burlington to Des Moines?

A. The Burlington Truck has a service, yes.

Q. And that would be available to you on interstate shipments?

A. Yes.

Q. Now, what motor carrier service do you have from Burlington to points such as Iowa City?

A. Hedrick Motor Transfer, single line, and Dohrn and Green to the Tri-Cities, thence the Rock Island Motor.

Q. Which service are you using now?

A. Dohrn and Green and the Rock Island Motor.

Q. And you don't use the Hedrick Truck Line?

A. Occasionally, but not when we can get away from it.

Q. But they do have a direct service between Burlington and Iowa City?

A. They do such as it is.

Q. What is your present motor carrier service between Burlington and Omaha?

A. We use a number of carriers. We use the Sturm [fol. 1090] Freight Lines, the Watson Bros. Transportation, and occasionally we use the Burlington-Chicago Cartage.

Q. You don't have any occasion to use the services of the Rock Island Motor Transit Company on your shipments from Burlington to Omaha?

A. I would say we don't avail ourselves of that service because we can't save time on a direct route from Burlington to Omaha by these other carriers.

Mr. Fowler: I think that is all.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Nolan:

Q. Mr. Partridge, so far as you know does the Burlington Truck Lines, or the Burlington Transportation Company in the operation of its motor lines, operate without any restrictions as regard to weight limitation or key point restriction?

A. Yes, sir.

Q. And are those operations conducted by the Burlington Truck Lines, or Burlington Transportation Company,

conducted on motor truck billing rather than upon rail billing?

A. Those operations are conducted upon the Burlington Motor Truck billing. That is all I am familiar with because these rates, scope of authority, and everything is published in the agency's tariff.

Q. They are in the various tariff publications?

[fol. 1091] A. Yes.

Q. How about service to Muscatine, Iowa? Does that have anything to do? Muscatine is one of the off-route points here, and does that have anything to do with your interest?

A. Muscatine is served by the Green Transfer Line as they have an interstate peddle run on interstate to Muscatine and return.

Q. That is a direct service?

A. That is right.

Mr. Nolan: I believe that is all.

Exam. Carpenter: Rex? That is all. You are excused.

(Witness excused.)

Mr. Nolan: Mr. Lindauer.

JOHN W. LINDAUER was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you give us your name, place of residence, and occupation?

A. John W. Lindauer, Fairfield, Traffic Manager for the Louden Machinery Company.

Q. Now, what is the nature of the business of the Louden Manufacturing Company?

A. We manufacture two lines, the barn line which includes the hay tools, hay drying systems, and then we have the dairy barn equipment, steel pens, stalls, and stanchions and ventilating systems. We have the industrial line, the [fol. 1092] overhead carrier systems, monorail systems.

Q. Now, Mr. Lindauer, how many people do you have employed at your factory?

A. Oh, approximately I would say two hundred fifty, something like that.

Q. Two hundred fifty people?

A. At the factory, Mmmmhuh.

Q. And has your company used the Rock Island Motor Transit Company's service in the past?

A. Yes, we have used their service since they began there.

Q. How long have you been Traffic Manager of the Louden Company?

A. Approximately thirty years.

Q. And state whether or not your company has shipments going throughout the entire middlewest in interstate commerce?

A. We do have.

Q. Now, you understand the service involved here is the application by the Rock Island Motor Transit Company to continue its operations that it had operated prior to certain restrictions between Des Moines and Omaha and certain adjacent points, intermediate points and points adjacent to that route. State whether or not in the past your company has made shipments wherein any part of that route would be involved.

A. You mean through the Omaha terminal?

Q. Yes, the Omaha Gateway.

A. Yes, we have made shipments that way, yes.

[fol. 1093] Q. In other words, a shipment came up from Fairfield to Des Moines on the Rock Island Motor Transit truck and then go on to Omaha, either for delivery by the Rock Island Motor for points they serve beyond Omaha, or for interline at Omaha, is that right?

A. That is correct.

Q. And what would you say is the size of the shipments shipped by your company that way when you were using, I mean when you had occasion to make the shipments?

A. It varies from minimum shipments up to five, ten thousand pounds, depending on the nature of the shipment.

Q. Now, these barnyard apparatus, stalls, and so on, hay tools and conveyors of different types for dairy barns, they will vary in size according to the shipment?

A. Yes, that is right.

Q. Now, you are acquainted with the fact that the Rock Island Motor Transit Company has been limited in the size of shipments it may carry into that territory?

A. Yes, sir.

Q. Has your company had to curtail its use of the Rock Island Motor Transit Company by reason of that limitation?

A. Well, we get better service other ways on account of that.

Q. On account of that limitation?

A. I believe that is correct.

Q. Otherwise you would have to make smaller shipments [fol. 1094] to stay under the five thousand pounds, isn't that correct?

A. That would be correct.

Q. Now, in the event that the Rock Island Motor Transit Company was restored to the authority it had to haul shipments irrespective of size and without key point restrictions, state whether or not your company would have occasion to make shipments.

A. Yes.

Q. By the Rock Island Motor Transit Company as you had in the past?

A. Yes, sir.

Mr. Nolan: I believe that is all.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Fowler:

Q. Mr. Lindauer, have you had occasion to ship commodities in excess of five thousand pounds since the restriction was placed upon the operation of the Rock Island Motor Transit?

A. You mean to any place?

Q. Points where you had to rely on the Rock Island Motor Transit for service.

A. Yes, we have had to.

Q. And how were they handled?

A. We handle them either by Rock Island Rails or some other truck line.

[fol. 1095] Q. Then, with respect to certain of the shipments that were in excess of the maximum limitation, you have tendered those to the Rock Island Railroad on rail billing?

A. That is right.

Q. And other shipments you have turned over to other motor carriers serving the town of Fairfield?

A. Yes, sir.

Mr. Fowler: Now, off the record may I ask this?

Exam. Carpenter: Off the record.

(Discussion off the record.)

Exam. Carpenter: On the record.

By Mr. Fowler:

Q. As I understand it the Rock Island Motor Transit Company now conducts a daily operation into Fairfield?

A. That is right.

Q. Direct from Des Moines, so far as the physical part of the operation is concerned?

A. Yes, sir.

Q. Now, with respect to interstate shipments which are to and from Chicago, Illinois, do you use the services of the other established motor carriers for such transportation?

A. We do.

Q. And do you also use the services of the Rock Island Motor Transit Company?

A. We do.

Q. And do you also use the services of the Rock Island Railroad?

[fol. 1096] A. We do.

Q. Do you also use the services of the Chicago, Burlington & Quincy Railroad?

A. The C. B. & Q., yes.

Q. Do you use the services of the Burlington Truck Lines?

A. We do occasionally.

Q. Now, with respect to Omaha, by what means are you

now transporting your shipments from and to Omaha from Fairfield? Are you using the service of the established motor carriers?

A. We use, we do, yes.

Q. And you use the services of the Rock Island Motor Transit Company on such shipments?

A. Yes, sir.

Q. Do you use the services of the Rock Island Railroad?

A. We do.

Q. Do you use the services of the Chicago, Burlington & Quincy Railroad?

A. We do.

Q. Do you use the services of the Burlington Truck Line?

A. Some.

Q. Now, with respect to this particular application, will you give me a typical illustration of the shipments that you are required to make in interstate commerce, that is a shipment from a point outside of the State to any point located on U. S. Highway 6?

[fol. 1097] A. I didn't get the question.

Mr. Fowler: Will you read the question?

(Question read.)

A. We are supposed to make to any point on U. S. Highway 6?

By Mr. Fowler:

Q. You understand we are talking about interstate shipments. We are not talking about shipments within the state.

A. I don't believe we have occasion to ship interstate to the points.

Mr. Fowler: I see. That is all.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Nolan:

Q. Mr. Lindauer, isn't it a fact the only use you would make of Highway No. 6 insofar as, I mean this service,

authority being sought in this case, is in connection with shipments going outside of the State through the Omaha Gateway, or through the Tri-City Gateway on the east?

A. Or Chicago.

Q. Yes, or Chicago. Now, what would be the average sized shipment made by your company, either through the Omaha Gateway or through the Chicago Gateway?

A. We have shipments that range up to truckloads. It depends on the job. For instance, our industrial line will have a system. That depends on the size of the system as to what the weight will be of the total shipment, and that is [fol. 1098] true of the barn job. It depends on the size. Some of them run pretty big.

Q. Do I understand most of your shipments move out by truck, truckloads or less than truckloads, rather than by rail carloads?

A. We get better service, yes.

Q. Most of your shipments move out by truck?

A. Most of them do.

Q. Either in less than truckload lots or truckloads?

A. Yes. We have some shipments that must go by rail because of the size or the length of them.

Q. State whether or not the Rock Island Motor Transit Company has an agent at Fairfield.

A. Yes, they have a terminal there, and has an agent. We have a speaker system right to and from our plant over there, and we have access in tracing to their communication system. It is a fine setup.

Q. Do they have delivery trucks at Fairfield?

A. Yes, they do.

Q. And they maintain an agent, terminal, and pick-up and delivery peddle trucks there?

A. Yes, sir.

Q. Do any other highway transportation companies which operate through Fairfield have such facilities, such as an agent, terminal and pick-up and delivery truck?

A. The only other one is Watson. We don't use them. We understand they don't have rights to pick up there, but [fol. 1099] they do have a terminal. That is the only other one.

Q. Do you understand they have a terminal there, or a relay point?

A. It might be a relay point. They call it a terminal.

Q. Where they change drivers?

A. Yes.

Q. Do they have an agent there that can give you rate information, and things of that character?

A. Well, we never use them. We don't have occasion to use them.

Q. So, other than what you think Watson may have, the Rock Island Motor Transit Company is the only other company?

A. That has the direct terminal of their own and make their own pick-ups.

Q. And state whether a company that provides an agent, terminal, pick-up and delivery service, rate information, tracing facilities, and things of that character, where you have a number of outbound shipments, is really necessary?

A. It is very convenient. It is an asset to the shipper, yes.

Q. In other words, in a town where there is very little outbound shipments such a service is necessary?

A. Outbound shipments?

Mr. Nolan: In a town where there are little shipments going out you don't need the terminal, etc.

Exam. Carpenter: Recross?

[fol. 1100] Recross-examination.

By Mr. Fowler:

Q. On your shipments moving from Fairfield to Omaha, by what transportation agency are they now being served?

A. Well, we use Sturm and Burlington Truck Lines mostly.

Q. All right. On truckloads moving from Fairfield to Chicago by what agency are they now being moved?

A. We use mostly Western Transportation to Chicago.

Q. And with respect to truckload shipments moving from Fairfield to the Twin Cities, what service do you use?

A. I don't recall any truckloads recently through the Twin Cities.

Q. Now, does the Rock Island Motor Transit Company have a freight dock at Fairfield?

A. Yes, sir.

Q. And is it located at the freight dock of the Rock Island Railroad?

A. It is in the same depot, yes.

Q. Does the Rock Island Motor Transit Company have a commercial agent at Fairfield?

A. Yes, sir.

Q. And you say you have a telephone direct from your office to the Rock Island depot?

A. It is an intercommunicating set, a speaker set.

Q. And if you are arranging for transportation to ship by truck or by rail, you just call over there?

[fol. 1101] A. Yes.

Q. And they will take care of you, no matter whether it is the Rock Island Motor Transit, or the Rock Island Railroad?

A. Of course, we have separate communication with the Rock Island Railroad if we want them.

Q. You have an intercommunicating set with them, too?

A. Yes, that is right.

Q. So they do maintain there a commercial agent for the truck line as well as an agent for the railroad?

A. Yes, sir.

Q. And you have two intercommunicating systems?

A. Well, it is the same system. It is used by both of them.

Q. Well, if you are going to ship by rail and call up over this telephone system and ask for the railroad agent, is that the way you do?

A. That is right.

Q. And if you want to talk to the truck fellow?

A. I call for him.

Q. Call for him on the same 'phone?

A. That is right.

Redirect examination.

By Mr. Nolan:

Q. By the way, this truckload traffic you say is now moving by Western from Fairfield to Chicago and some other line to Omaha?

A. It did.

Q. That previously moved, or part of it moved by the [fol. 1102] Rock Island Motor Transit Company?

A. It did, yes, sir.

Q. Would you say practically all of it moved by the Rock Island Motor Transit?

A. They had their share, I will say that.

Q. That was before the limitation?

A. Yes.

Mr. Nolan: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

L. A. Bissig was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you give us your name, place of residence, and occupation, please?

A. L. A. Bissig, Iowa Malleable Iron Company, and Everstick Anchor Company, Fairfield, Iowa.

Q. Iron Company, is that right?

A. That is right.

Q. And what is your position with those companies?

A. Traffic Clerk.

Q. And what are the products manufactured by those companies?

A. Malleable iron castings and Everstick guy anchors. The anchors are used for guying telephone, telegraph and power transmission lines.

[fol. 1103] Q. You have shipments going into interstate traffic throughout the midwest here?

A. That is right.

Q. Now, how long have you been with the company?

A. Seventeen years.

Q. And you are the Traffic Manager for the company, is that right?

A. That is right.

Q. Now, you heard the testimony of Mr. Lindauer in re-

gard to the traffic facilities provided by the Rock Island Motor Transit Company at Fairfield, Iowa. Do you avail yourself of that service, the rate information, etc.?

A. I do.

Q. Now, you understand the nature of the application on file here, do you not?

A. Yes.

Q. State whether or not your company has used the Rock Island Motor Transit Company's service in the past.

A. Yes, we have.

Q. And to what points?

A. St. Paul, Chicago, Omaha.

Q. And state whether or not that service was or was not satisfactory.

A. It was.

Q. And state whether or not you are acquainted with the [fol. 1104] limitations now imposed upon the operation of the Rock Island Motor Transit Company.

A. Yes, I am.

Q. And state whether or not those limitations are in any way interfering with your use of the Rock Island Motor Transit Company's service.

A. They are.

Q. In what respect?

A. We had to limit our shipments to two thousand pounds in order to get the shipments on the way.

Q. That was when they had a two thousand pound limitation. How about since they have been increased to five thousand pounds?

A. We are still limited.

Q. Limited to five thousand pounds?

A. That is right.

Q. And state whether your company has shipments that exceed five thousand pounds that would normally move over this part of the Rock Island Motor Transit Company's system.

A. Yes, we do have them.

Q. And that would be to Omaha and the Twin Cities, is that right?

A. Yes, and other points.

Q. And other points. State whether or not the service which has been provided by the Rock Island Motor Transit

of service you have been getting from the Rock Island Transit?

A. That is right.

Q. Do you have a telephone system running from your [fol. 1108] office to the freight depot of the Rock Island?

A. Telephone system?

Q. You do?

A. Public telephone.

Q. But you don't have a special intercommunicating system?

A. No, sir.

Q. Does the pick-up and delivery truck at Fairfield handle both the motor billed and rail billed freight?

A. Yes.

Q. And both officers are in the same building of the Rock Island Railroad?

A. The same building.

Mr. Fowler: That is all.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Nolan:

Q. Why do you say you get better service from Fairfield to Omaha and the Twin City area by the Rock Island Motor Transit than you do from other companies serving Fairfield?

A. Reports from the customers. We have a contract with the Western Electric Company, which is the purchasing agent for the Bell Telephone, and we ship guy anchors all over the country. They have their traffic department in New York City, and we are to follow their complete routing, and in case of storm emergencies, they telegraph or telephone orders in, and they ask us to give them truck [fol. 1109] number, time of departure, driver's name, and let us trace their shipments as far as possible and then report to them the outcome, and they trace it the rest of the way. We have had cases when we would have the routing "Burlington truck" for shipments to the Dallas-Houston storm emergency, and we wouldn't be able to get trucks

immediately, and I would contact their traffic department in New York and tell them that the Rock Island Motor had trucks available, and they would give permission to change the routing.

Q. In other words not only they have told you, but in these instances——

A. That is right.

Q. In checking up for Western Electric.

A. Western Electric.

Q. By the way, for the record how large a town is Fairfield?

A. About seven thousand.

Q. And in addition to the locker company and the company Mr. Partridge testified to, and your two companies, what other manufacturing industries are there?

A. There is Hess and Anderson, the Fairfield Glove and Mitten Factory.

Q. What do Hess and Anderson manufacture?

A. They manufacture wood-working tools, lathes, and drills.

Q. And the Fairfield Glove Company, they manufacture gloves?

A. That is right, and there is the Universal Manufacturing which makes plastic and dime store articles and small products, the Aluminum Factory, and the Harper Brush Works. [fol. 1110]

Mr. Nolan: I believe that is all.

Exam. Carpenter: Recross. You are excused.

(Witness excused.)

Exam. Carpenter: We will have a recess.

(Short recess.)

Exam. Carpenter: We will proceed.

G. M. HARTLINE was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you give us your name, place of residence, and occupation?

A. G. M. Hartline. I operate a service station at Altoona.

Q. Service station and garage, is that right?

A. Yes, and appliances.

Q. What line of appliances do you have?

A. We have television, refrigerators, hot water heaters, stoves.

Q. And do you handle any particular line of automobiles, or just repair parts?

A. Just repairs.

Q. Do you handle tires and batteries?

A. Yes.

Q. And accessories?

A. Yes, accessories.

[fol. 111] Q. You handle a service station, greases, oils and things of that character?

A. Yes, sir.

Q. Now, Mr. Hartline, what out of State shipments do you have coming into your place of business?

A. Very little. It is oil and grease out of Kansas City, but they have changed their depot to Des Moines now.

Q. How about your appliances, radios and stoves?

A. It is out of Des Moines most all of them.

Q. Are they shipped into Des Moines in carload quantities and hauled out to you?

A. Yes.

Q. So these shipments do originate outside of the State?

A. Yes, east.

Q. Your appliances all come from practically out of the State?

A. That is right, Illinois and New York.

Q. I suppose those shipments move into Des Moines for several dealers, and the quantity is broken up at Des Moines and delivered to you and other local dealers?

A. That is right.

Q. Now, are you located right on Highway No. 6?
A. Yes, sir.
Q. At Altoona?
A. East of Des Moines.
Q. I know, but the most of the business district?
[fol. 1112] A. It is about four blocks down.
Q. But you are right on the highway?
A. Yes, sir.
Q. What company have you been using on these shipments from outside of State points?
A. The Rock Island.

Exam. Carpenter: I thought it came through to Des Moines.

Mr. Fowler: That is objected to unless it is from out of State points.

Exam. Carpenter: It is out of State. May I inquire of the witness, please?

By Exam. Carpenter:

Q. Do you have any direct shipments from any points outside of the State of Iowa direct to you at Altoona, Iowa?
A. No, not for a long time I have had any.

By Mr. Nolan:

Q. How about this oil you spoke of?

Mr. Fowler: That is objected to.

Exam. Carpenter: The objection sustained. Reframe the question.

By Mr. Nolan:

Q. Mr. Harthne, state whether or not you have had auto supplies shipped to your place of business from Chicago, Illinois:
A. No, I haven't.
Q. How about auto supplies from St. Paul, Minnesota?
A. Yes, we get that through.
[fol. 1113] Q. Direct from St. Paul?
A. Direct from St. Paul, and from Chicago. I will take that back, from Chicago, too.

Q. You have shipments come direct from the manufacturing dealer, both from Chicago and Minneapolis?

A. And Kansas City, too.

Q. And Kansas City, too. All right, and how do those shipments come into your place of business?

A. By Motor truck.

Q. What company?

A. Rock Island.

Q. Have you had shipments brought in by any other motor truck companies?

A. There was some oil brought in but I don't recall which company it was.

Q. Do you know of any other company that gives local service to Altoona than the Rock Island Motor Transit Company?

A. No, sir.

Q. Have you ever been solicited by any other motor truck company for handling these shipments from Chicago and St. Paul?

A. No, I haven't.

Q. And Kansas City?

A. No, sir.

Q. You do know, however, there are many, you have seen many trucks go by your place of business every day?

[fol. 1114] A. Well, hundreds of them.

Q. But none stop and deliver merchandise to you?

A. No, sir.

Cross-examination.

By Mr. Fowler:

Q. Does the Iowa-Nebraska Transportation Company serve Altoona?

A. No.

Q. Wasn't it the Iowa-Nebraska that handled this oil shipment?

A. It probably was, come out of Kansas City.

Q. It was handled by the Iowa-Nebraska. Does the Rock Island Railroad have any agent at Altoona?

A. Yes, sir.

Q. Does the Rock Island Railroad have or the Rock Island Motor Transit Company?

A. Yes, sir.

Q. So when you want truck service you call the Rock Island Railroad agent?

A. I don't ship anything.

Q. When you have anything shipped in do you go over and pick it up at the Rock Island depot?

A. They bring it to my place.

Q. When you receive any do you call the Rock Island agent?

A. We usually ship back where it starts.

Q. The only representative the railroad or the motor company have in Altoona is the depot agent?

[fol. 1115] A. The depot agent, yes, sir.

Q. And if you have any problems in connection with that, you would talk to him about it?

A. Yes.

Mr. Fowler: That is all.

Redirect examination.

By Mr. Nolan:

Q. What does he do, send one of the truck drivers up to see you?

A. The agent, usually one of the helpers down at the depot.

Mr. Nolan: That is all.

Exam. Carpenter: That is all. You are excused.

(Witness excused.)

GEORGE E. ADAMS was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Now, where do you live? What is your name first?

A. George E. Adams, 604 North Tremont, Kewanee, Illinois. I am Traffic Manager for the Burlington-Chicago Cartage, Inc., and Burlington-Chicago Cartage, operator

of C. H. Smith, dba Chicago-Nebraska Motor Express and Burlington Terminal Warehouse.

Mr. Fowler: You are going to have to give me that again.

(Answer read.)

By Mr. Nolan:

Q. Now, where is the Chicago, Burlington-Chicago is that?

[fol. 1116] A. Cartage.

Q. Where is that located?

A. The general office is in Kewanee, Illinois.

Q. And what are its operations?

A. They operate from Chicago, Illinois, over 34 with Princeton, Illinois, Kewanee, Illinois, Galva, Illinois, Galesburg, Monmouth, Illinois, and Burlington, Iowa, Keokuk, Iowa, Fort Madison, Iowa, Fairfield, Mount Pleasant, Ottumwa, Muscatine, and over the Chicago-Nebraska rights from Chicago to the Tri-Cities, Clinton, Iowa, Omaha, Nebraska, and Peoria, Illinois, Canton, Illinois.

Q. Now, that company is engaged in the transportation of general commodities by motor vehicle?

A. Excuse me, just a moment. I would like to extend that operation of the Chicago-Nebraska to Lincoln and Hastings, Nebraska.

Q. Now, those companies are common carriers of general commodities in interstate or foreign commerce by motor vehicle?

A. Yes, sir.

Q. And you say you are the Traffic Manager. You also are a member of the honorable profession of the law, are you not?

A. Yes, sir.

Mr. Nolan: Do you agree with that?

Mr. Fowler: In some cases.

By Mr. Nolan:

Q. Now, what interest do you have, does your companies have in this present application, Mr. Adams?

[fol. 1117] A. Our primary interest in this application is

tonnage originating in western Illinois, the northwestern part, destined to points in Iowa along Highway 6.

Q. And is that for interline with the Rock Island Motor Transit Company for freight originating in that territory?

A. That is correct, sir.

Q. And destination points along U. S. Highway No. 6, is that correct?

A. Yes, sir.

Q. Now, I assume your company's operations from Chicago to Omaha, Lincoln, and Hastings, that is what we might call an overhead operation without local service to intermediate points?

A. That is correct, with the exception of the Tri-Cities and Peoria.

Q. Now, has there been a regular interline, flow of interline freight between the companies you represent and the Rock Island Motor Transit Company for delivery to these destination points between the Tri-Cities and Omaha?

A. There has been for a number of years.

Q. And state whether or not that service has been satisfactory or otherwise.

A. It has been very satisfactory.

Q. Do you know, Mr. Adams, of any other company that gives the same quality and character of service as the Rock Island Motor Transit Company has been giving to these [fol. 1118] destination points, intermediate points from the Tri-Cities to Omaha which the Rock Island Motor Transit Company has been giving?

A. From the Tri-Cities to Omaha?

Q. From the Tri-Cities to Omaha, the intermediate points, do you know of any other company has been giving the same type of service as the Rock Island Motor Transit Company for delivery to these so-called intermediate or peddle points?

A. Yes.

Q. Do you know of any other companies that have been giving that?

A. Yes.

Q. What companies?

A. Burlington Truck Lines, Watson Bros.

Q. I mean along Highway 6.

A. The Iowa-Nebraska.

Q. Is that a regular service of those companies?

A. Not very regular, no, sir.

Q. Well, what company do you interline the majority of your freight with for points intermediate between the Tri-Cities and Omaha?

A. The Rock Island Motor.

Q. And why do you do that?

A. It is a very tedious question. To handle freight originating in the western part of Illinois destined to those Iowa points, our only interchange point, other than with the Rock Island Motor Transit Company, will be Chicago, [fol. 1119] Illinois. We would have to back-haul the traffic one hundred forty miles to Chicago and try to persuade some carrier to accept it when your actual class rate from Chicago to destination is less than it is from the point of origin to destination.

Q. Now, where do you interline with the Rock Island Motor Transit Company, at the Tri-Cities?

A. No, sir, at Ottumwa.

Q. At Ottumwa, and then does that freight move over the Rock Island Motor Transit Company to the points along U. S. Highway No. 6?

A. That is correct, sir.

Q. You said that Watson and Iowa-Nebraska have some service into this territory. Have you had occasions where they have refused or not provided the service that you found the Rock Island Motor Tran it Company provided?

A. Yes, sir. At one time we interchanged with Watson at Ottumwa, but they closed their terminal there, and we also tried to use their service from Burlington, Iowa. At times they will accept traffic and at times they will not.

Q. Does your company maintain a terminal at Ottumwa?

A. No, sir, it doesn't. We have at one time but not at present.

Q. Are you acquainted with the fact that the Rock Island Motor has a terminal there?

A. Very much so.

Q. And it has an agent, a dock, and everything of that character?

[fol. 1120] A. Yes, sir.

Q. And you deliver your freight to the Rock Island terminal there for interchange, is that correct?

A. That is correct.

Q. Does the Iowa-Nebraska have a terminal there for interchange?

A. No, sir. The only one I know of is the Rock Island Motor Transit Company.

Q. Now, do you know of any company that provides the same type of local service to interior Iowa points served by the Rock Island Motor Transit Company that the Rock Island provides?

A. No, sir, I do not.

Q. And what would be the effect of your company's business, so far as traffic originating in the northern Illinois points served by your company, if the Rock Island's service was eliminated or materially curtailed?

A. The major type of tonnage that we are handling in connection with the Rock Island Motor Transit Company at the present is dated circulars, which is a very perishable commodity. It has to be at the destination within a certain length of time, and I think if we lose the service of the Rock Island Motor Transit Company from Ottumwa, we would lose the tonnage ourselves, and I don't know of any service they could get that would be satisfactory.

Q. Now, what was that traffic you are talking about?

A. Advertising matter. It is dated circulars that are [fol. 1121] distributed for a sale that is going to be held a certain date.

Q. And is there a regular flow of that traffic?

A. Regular, monthly.

Q. And that may go to any point along U. S. Highway No. 6 or points adjacent?

A. That is a part of the territory it goes in, yes. There is distribution over the entire United States, see.

Q. Now, do the size of the shipments mean anything in regard to volume shipments, or are those mostly small sized shipments?

A. No, sir. They run from one thousand pounds to ten thousand pounds.

Q. Are you familiar with the fact that the Rock Island Motor Transit Company, so far as its operation between

the Tri-Cities and Omaha, is restricted to a five thousand pound shipment?

A. Very much so.

Q. And has that interfered with your ability to interline with the Rock Island Motor Transit Company for destinations along U. S. Highway No. 6?

A. Well, it has caused inconvenience I would say but we have been successful in discussing this with the shipper, and they are making more shipments more frequently, and thereby coming under the five thousand pound restriction.

Q. If the rights of the Rock Island Motor Transit Company were restored so they could haul shipments of unlimited size, would there be traffic available to the Rock Island from your company?

[fol. 1122] A. Yes, sir.

Q. To the points along U. S. Highway No. 6?

A. There definitely would.

Q. And you, of course, are a common carrier, your company is a common carrier of motor freight with rates and classifications and things of that kind?

A. Yes, sir.

Q. And you can only interline on through billing with another carrier on truck rates, isn't that true?

A. That is correct.

Q. How long have you been with these companies?

A. With this particular company?

Q. Yes.

A. Four years.

Q. Is your company a member of the various trade organizations that motor carriers belong to such as the A. T. A.?

A. Practically all of them.

Q. And the different tariff bureaus, publishing bureaus, and things of that character?

A. Yes, sir.

Mr. Nolan: I believe that is all.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Fowler:

Q. As I understand it the particular traffic that bothers you is this advertising material?
[fol. 1123] A. That is just some of the traffic.
Q. I think you stated on direct that was the one that was presently bothering you, is that correct?
A. Yes.
Q. Now, where does that originate?
Q. At Kewanee, Illinois.
Q. And the name of the company?
A. Mail-O-Graph.
Q. What do these advertising circulars consist of?
A. Montgomery Ward, advertising monthly sales.
Q. This movement is a monthly movement?
A. Yes, it runs continually.
Q. Now, what points in Iowa—I will withdraw that.
Q. Using Kewanee as an origin point, to what points in Iowa are you authorized to give a direct service?
A. In Iowa, Fort Madison, Keokuk, Burlington.
Q. Let me put it this way. You don't have any authority over U. S. Highway 6?
A. Yes, we have authority over Highway 6.
Q. Name the points.
A. We have no intermediate points there.
Q. What points do you have in Iowa?
A. We have authority over 6 but we have no intermediate points within Iowa with the exception of the Tri-Cities.

By Exam. Carpenter:

Q. Overhead authority to Omaha you testified?
[fol. 1124] A. Yes.

By Mr. Fowler:

Q. You do have authority to serve the Tri-Cities area?
A. Yes.
Q. Moving west what is the next point on U. S. Highway 6 you are authorized to serve?

A. There would be no other points until you came to Council Bluffs.

Q. Do you have authority to serve Omaha?

A. Yes.

Q. And do you serve Chicago and Omaha direct?

A. Yes, sir.

Q. And Chicago and Kewanee direct?

A. Yes.

Q. You don't have any authority to Des Moines?

A. No.

Q. Do you serve Kewanee to Davenport direct?

A. The Tri-Cities, we hit the Illinois part of the Tri-Cities.

Q. Kewanee to Davenport, Iowa, would be an interstate movement.

A. We have no service from Kewanee to Davenport.

Q. You do serve Kewanee, Chicago, and your western Illinois points direct to Ottumwa, to the points on Highway 34 you just mentioned?

A. That is right.

[fol. 1125] Q. Now, to what points do these advertising circulars move with respect to U. S. Highway 6?

A. When I speak of U. S. Highway 6 I was referring to some points beyond such as Ames, Iowa, Cedar Rapids, Des Moines, Iowa City, Marshalltown, Mason City, Newton, Oskaloosa, Washington, Waterloo, and in Minnesota, Albert Lea.

Q. Now, just a moment. You are getting away from the list. Let's confine this now to points located on U. S. Highway 6. I think you mentioned Newton, Iowa.

A. That is correct.

Q. How do you presently handle a shipment from Kewanee, Illinois, to Newton, Iowa?

A. To Ottumwa, Iowa, in connection with the Rock Island Motor Transit.

Q. You take it to Ottumwa and interline it with the Rock Island Motor Transit, and they take it to Newton?

A. Yes, sir.

Q. Now, are those shipments in excess of five thousand pounds?

A. To Newton, I am not positive. I couldn't say.

Q. The probabilities are they are much smaller than that.

A. No, all of the shipments average approximately four to five thousand pounds.

Q. All right, how are you handling them now?

A. As I told you, we have had to have the shippers, instead of shipping once or twice, they have had to multiply [fol. 1126] the number of the shipments.

Q. Have you ever tried out any other interline arrangement with the other carriers at the Tri-Cities?

A. To handle the freight through the Tri-Cities, we would have to take it through Chicago, and back to the Tri-Cities, which is not practical.

Q. Then you can not have an interline arrangement with any of these carriers at the Tri-Cities?

A. Not from Kewanee.

Q. So the reason you do interline at Ottumwa is you can not interline at the Tri-Cities?

A. That is correct.

Q. And the same thing would be true of all of the carriers that operate east and west over U. S. Highway 6?

A. Yes, sir.

Q. Now, with respect to Des Moines shipments from Kewanee, how are those presently handled?

A. The same route through Ottumwa.

Q. And is that again handled that way by reason of your inability to interchange at the Tri-Cities with any of these other carriers?

A. Also the inability to maintain a logical connection at Chicago.

Q. Do you have interline arrangements with other carriers to serve Des Moines other than the Rock Island Motor [fol. 1127] Transit Company?

A. Yes, sir.

Q. And will you name those, please?

A. I couldn't name them all. Any carrier from Chicago to Des Moines we have interchange agreements with.

Q. Well, do you actually interchange with them?

A. No, because it is not desirable tonnage for them.

Q. Well, you mean this advertising material is not desirable tonnage?

A. Due to the circuitous routing it would have to take to the Chicago Gateway and then back.

Q. Because of your Tri-City problem?

A. That is due to our operation, yes.

Q. Well, in other words you would prefer to move this freight from Chicago, or from Kewanee, or from any of the points in western Illinois as far west as you could over your own line?

A. No, we wouldn't prefer to do that but we have found it more practical to do that.

Q. The fact is you do take this tonnage to Ottumwa?

A. That is correct.

Q. And you interline that with the Rock Island Motor Transit Company?

A. Yes.

Q. For these points located on U. S. Highway 6?

A. Yes.

[fol. 1128] Q. And that is true with respect to Des Moines, Iowa?

A. Yes.

Q. Omaha you handle direct?

A. That is right, sir.

Q. The Tri-City area you are blocked out of because of your inability to interline with these carriers at that point?

A. From that origin point, yes, sir.

Q. Is the same thing true of Chicago? Does your complication at the Tri-Cities on interline affect your Chicago origin shipments, too?

A. No. You have too many of those up there.

Q. There wouldn't be any occasion to interline Chicago to Omaha, would there? Where do you interline your Peoria, Illinois, origin shipments for points located on U. S. Highway 6?

A. At approximately the same point, Ottumwa.

Q. And what does that involve on your part?

A. We are not actually, I can not testify truly. I can say what we would do with them. At the present time our Peoria rights are involved in a hearing. The final decision of the Commission has not been issued. Therefore, we are not too actively soliciting traffic in that territory.

Q. At the present time it is safe to say you are not serving Peoria to these points?

A. We are serving Peoria.

Q. You are not very active?

[fol. 1129] A. We are not spending too much money on it.

Q. Do you happen to have with you a map of your system?

A. No. I have copies of the certificates if you would like those?

Q. No, I don't care. Well, as I understand it, then, you have got an important shipper at Kewanee that manufactures this advertising material for Sears, Roebuck?

A. Montgomery Ward.

Q. Montgomery Ward, and they want that distributed in Iowa to points located on U. S. Highway 6 such as Newton and Des Moines?

A. Yes, sir.

Q. And, at the present time, due to your inability to interline at the Tri-Cities, you are interlining with the Rock Island Motor Transit at Ottumwa?

A. That is correct, sir.

Q. And on any shipments that move to any points that you can serve in Iowa, you are handling that direct?

A. Yes.

Mr. Fowler: That is all.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Nolan:

Q. Mr. Adams, to get the geography straightened out here a little bit, your company's main office is at Kewanee, as I understand it?

A. Yes.

[fol. 1130] Q. Where is Kewanee located with reference to Burlington, Iowa, on the horizontal east and west plane?

A. Eighty-five miles east of Burlington.

Q. In other words, Burlington is the most direct gateway into Iowa for your company on a movement of freight from Kewanee into the Iowa territory, is that correct?

A. Yes.

Q. And to move the same traffic up through Chicago, that would be quite circuitous?

A. That is true.

Q. How far is Kewanee from Chicago?

A. One hundred forty miles.

Q. And direct north isn't it?

A. Northeast.

Q. Northeast, so from the practical standpoint the most direct operation from Kewanee into the Iowa territory, then, would be through the Burlington, Iowa, gateway?

A. Yes, sir.

Q. And, as a matter of fact, your company is moving the most direct route into Iowa by coming through the Burlington, Iowa, gateway to Ottumwa, and there interlining with the Rock Island Motor Transit Company for these interior Iowa points, is that correct?

A. That is true.

Q. Now, in addition to this advertising material, state [fol. 1131] what the fact is, whether or not your company as a common carrier, handles all kinds of general commodities through the gateway in the same way?

A. It is just the general run of truck transportation traffic that we accept.

Q. And state whether or not the Rock Island Motor Transit Company interlines with you at Ottumwa, or some other point, for shipments originating in Iowa and destined to some points on your line in Illinois. Is there an exchange of interstate traffic?

A. No, sir, there is not.

Q. They don't give you anything going back?

A. No, sir.

Q. Are you available for such traffic, or do you have other traffic?

A. We are available but we have not been actively soliciting.

Q. I see. Now, in connection with this advertising business the fact is your company interlines general commodities picked up in various Illinois points served by your company, to the points served by the Rock Island Motor Transit Company in Iowa?

A. We do.

Mr. Nolan: I believe that is all.

Exam. Carpenter: Recross.

Recross-examination.

By Mr. Fowler:

Q. Just a moment. With respect to your shipments des-
[fol. 1132] tined to Cedar Rapids, moving from Kewanee, do you interline those with the Rock Island Motor Transit at Ottumwa?

A. Yes, sir.

Q. With respect to shipments moving from Chicago to Cedar Rapids, other than this advertising material, do you interline that with the Rock Island Motor Transit at Ottumwa?

A. We handle no traffic out of Chicago destined to Cedar Rapids.

Q. You don't originate any traffic in Chicago?

A. No, sir.

Q. None whatever?

A. Did you give me a specific destination there?

Q. Cedar Rapids.

A. No, sir.

Q. Ottumwa?

A. No Cedar Rapids. We do handle Ottumwa.

Q. You handle Chicago to Ottumwa direct?

A. Yes, sir.

Q. And Chicago to Cedar Rapids through interline at Ottumwa with the Rock Island Motor Transit?

A. I handle no Cedar Rapids from Chicago.

Mr. Fowler: Off the record. Just off the record.

(Discussion off the record.)

Exam. Carpenter: It has to go into Chicago and out to the Tri-Cities. He doesn't have a direct line from Kewanee into the Tri-Cities.

[fol. 1133] Mr. Nolan: I am going to get this record straightened out.

Mr. Fowler: Back on the record.

By Mr. Fowler:

Q. The answer is, as I understand it, there is a direct service from Chicago to Cedar Rapids which you can not compete with via other carriers?

A. I don't know whether we can compete with it or not, but we have never seen the necessity of doing so.

Q. You don't handle it?

A. No; sir.

Mr. Fowler: That is all.

Redirect examination.

By Mr. Nolan:

Q. Now, Mr. Adams, is it fair to say that you have one operation that operates between Chicago, Omaha, Lincoln and Hastings, Nebraska, which is an overhead operation?

A. Yes.

Q. Except for service at the Tri-Cities, Omaha and Lincoln?

A. And Peoria. That fellow has a north route and a south route with it.

Q. I see, you have two routes?

A. Yes, in connection with the Omaha and the 34 operation in connection with Burlington and Chicago goes through Kewanee, splits right through the middle of it.

Q. Now, what points in Illinois do you serve besides Chicago, Peoria, and Kewanee?

A. We serve Princeton, Galva, Galesburg, Monmouth, [fol. 1134] and then we have an irregular operation if you want that in there.

Q. Well, now, those points such as Galesburg, Monmouth, and Princeton, points like that, I assume freight picked up there will be taken into your Kewanee terminal and dispatched from there into Iowa points?

A. Yes.

Q. Then, the point I am trying to make is for the towns that you serve in Illinois, outside of Chicago and Peoria, such as Monmouth, Galesburg, Princeton, Kewanee, that the Burlington gateway, the Burlington, Iowa, gateway is the most practical gateway into Iowa for the flow of your traffic?

A. Yes.

Q. Is that correct?

A. Yes.

Mr. Nolan: That is all.

Recross-examination.

By Mr. Fowler:

Q. Mr. Adams, on your advertising matter moving to Newton, Iowa, couldn't you interline with the Iowa-Nebraska Transportation Company, or couldn't you interline with the Des Moines Transportation Company?

A. At Chicago.

Q. Or interline with the McCoy Truck Lines?

A. At Chicago.

Q. Or Merchants Motor Freight?

A. At Chicago.

[fol. 1135] Q. So these shipments to these points on U. S. Highway 6 could be handled by interline with other carriers moving, serving these points if you would interline at Chicago instead of at Ottumwa?

A. If they would accept them, yes.

Mr. Fowler: That is all.

Redirect examination.

By Mr. Nolan:

Q. Now, Mr. Adams, in addition to having to back-haul the Kewanee freight to Chicago, a distance of one hundred forty miles, what is the fact as to whether or not you wouldn't have to back-haul the freight from Galesburg, Monmouth and Princeton approximately the same distance in order to turn it over to some other carrier at Chicago for destinations to Iowa points along Highway 6?

A. It would average about the same distance.

Mr. Nolan: That is all.

Mr. Fowler: That is all.

Exam. Carpenter: You are excused, sir.

(Witness excused.)

CHARLES H. PAHL was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you give us your name, place of residence, and occupation, Mr. Pahl?

A. Charles H. Pahl, 1724 24½ Street, Rock Island.

[fol. 1136] Q. What is the name of that street?

A. 24½ Street.

Q. Rock Island?

A. Illinois.

Q. What is your business, Mr. Pahl?

A. General Superintendent of the Rock Island Bridge and Iron Works.

By Exam. Carpenter:

Q. Rock Island what?

A. Rock Island Bridge and Iron Works.

By Mr. Nolan:

Q. Your company is a manufacturing company or construction company?

A. Well, we manufacture, we fabricate steel for building is what we do.

Q. And how long have you been connected with the company?

A. Since 1914.

Q. Since 1914?

A. Yes.

Q. And does your company have shipments moving into the Iowa territory served by the Rock Island Motor Transit Company?

A. Yes.

Q. And where do those shipments go, to small towns, large towns, just tell us?

A. They go wherever anybody wants to build a building and we have luck enough to get the job, so that is liable to be any place.

[fol. 1137] Q. Has your company used the Rock Island Motor Transit Company for hauling your products into the Iowa territory in the past?

A. Yes. The last big job was the hospital in Iowa City last summer.

Q. And did your company provide steel for that?

A. We provided a certain per cent of it. Must have been one hundred tons.

Q. You provided one hundred tons?

A. Yes. I can not remember exactly, something like that.

Q. In what sized shipment does this steel usually move out of your place of business into the Iowa territory served by the Rock Island Motor Transit Company?

A. All the truck is authorized to haul, 27,000, 28,000, all the truck is authorized to move.

Q. Does that all move by truckload lots or some small quantity?

A. Truckload lots when we have a big job like that.

Q. Do you have any little jobs?

A. Oh, yes. We have small ones, too.

Q. Where you ship around a few hundred pounds of steel?

A. Yes, five hundred, one thousand, two thousand, anything.

Q. And have you had occasion to ship by the Rock Island Motor Transit Company these so-called small shipments from five hundred to one thousand, two thousand pounds, in the last several years?

A. Yes, sir.

[fol. 1138] Q. And have you also had occasion to ship by the Rock Island Motor Transit Company the large shipments, the truckload lots?

A. Yes.

Q. And what has been the character of the service of the Rock Island Motor Transit Company that you have used along Highway No. 6 across Iowa, whether it has been good or bad?

A. On this big job they picked it up one day and delivered it the next.

Q. Did the Rock Island Motor Transit Company handle the Iowa City hospital job?

A. Yes, all but one load which was shipped by mistake in a rail car and moved to Iowa City by rail.

Q. The Iowa City hospital job, that was completed before the restrictions were placed on the Rock Island Motor Transit Company?

A. Just about the time it was put on it was completed.

Q. Completed just before they were restricted?

A. I think so.

Q. If the restrictions were removed from the Rock Island Motor Transit Company's operations, would your company have occasion to make truckload quantity shipments into this territory?

A. Yes, whenever we get a job out here.

Q. Is your company actively soliciting jobs, bidding on contracts, etc.?

A. Yes.

[fol. 1139] Q. And the shipments, the service which you have used by the Rock Island Motor Transit Company for the little orders as well as the big orders, has that service been satisfactory in the past?

A. Yes, sir.

Mr. Nolan: That is all.

A. Never had any complaint on it.

Cross-examination.

By Mr. Fowler:

Q. On your steel to Iowa City, Mr. Pahl, did you select the Rock Island Motor Transit Company because you wanted to give them the business?

A. No, not exactly, because some of these other companies wouldn't leave it stick out of the back end, and we have long stuff a lot of times. Anything within the law they will take, the Rock Island Motor Transit will, the Rock Island, but the other ones won't leave it hang out of the back of the truck, and we couldn't use it. Some only have a twenty-four foot truck and that is it. You can not haul anything longer.

Q. Aren't there some heavy haulers that have this type of equipment?

A. We have to get special equipment.

Q. The Rock Island Motor Transit only has this equipment?

A. That is the only one we had any luck on this deal.

Q. Otherwise, you would have to get a special hauler?

A. Yes.

[fol. 1140] Q. Is that true generally, or you use other motor carriers?

A. That is true all of the time on long pieces with other truck lines.

Q. You can not get any other truck line to take it except the Rock Island Motor Transit?

A. That is the only one that comes out this way. We have one that goes the other way in Illinois, but doesn't have anything to do out this way.

Q. The Rock Island Motor Transit handled all of your steel to Iowa City?

A. It did——

Q. Except the one rail car. Do you do work for the Rock Island Railroad?

A. Yes, they switch right into our place down there.

Q. Do you do some work for them?

A. No.

Q. You like the Rock Island because they have a switch yard right in your place?

A. Not exactly that reason. As I said before, they haul long pieces if they have to.

Q. They take care of you pretty well, do they?

A. Yes.

Mr. Fowler: That is all.

Exam. Carpenter: Redirect.

Redirect examination.

[fol. 1141] By Mr. Nolan:

Q. By the way, Mr. Pahl, state whether or not some of the other truck companies have refused to haul some of the smaller shipments for your company in the Iowa traffic?

A. Yes, they call up and say they go along this certain route but they say they don't stop there.

Q. Are there any others that have refused to handle shipments to some of the small towns?

A. Yes.

Q. Have you ever had the Rock Island Motor Transit Company give you that answer to the points which they serve?

A. No.

Mr. Nolan: That is all.

Recross-examination.

By Mr. Fowler:

Q. On these steel shipments what points did they refuse to take your freight for, within the last six months?

A. I couldn't exactly remember what they are now. I think Washington, Iowa. Does the Rock Island Motor go into that town, does it?

Mr. Nolan: Yes.

A. Washington, Iowa, Keeshin wouldn't take it. That is one of them.

By Mr. Fowler:

Q. All right, what points involved in this application in the last six months you have had any carrier refuse to take it?

A. You mean on No. 6?

[fol. 1142] Q. Involved along No. 6?

A. I can not exactly specify that one. We have things happen and I pay no attention to it.

Q. You made the statement in your direct testimony.

A. You said what truck?

Q. The name of the carrier and the town that has refused to handle your steel shipments from Rock Island to any point on U. S. Highway 6 within the last six months.

A. I didn't say that.

Q. I am sorry. I misunderstood.

A. I could not say who they are. I don't remember. I asked them on the telephone if they go there and they say they don't.

Q. You don't remember the name of the carrier or the name of the town?

A. Washington, Iowa, was one for sure.

Mr. Fowler: That is all.

(Witness excused.)

Exam. Carpenter: Mr. Martin, you may enter your appearance at this time.

Mr. Martin: J. H. Martin, 500 Bankers Trust Building, Des Moines, Iowa. I am a practicing lawyer and admitted to practice before the Commission. I appear for the Rock Island Motor Transit Company.

Mr. Fowler: While you are at that I would like to enter an appearance at this time for the McCoy Truck Lines, [fol. 1143] Inc., in addition to those carriers I previously indicated.

Exam. Carpenter: All right, Mr. Fowler.

FRANK CARLSON was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. You are Mr. Frank Carlson from Colfax, Iowa?

A. Yes, sir.

Q. And what is your business, Mr. Carlson?

A. I have a department store and a variety store.

Q. And I believe those are two separate stores, are they not?

A. Yes, sir, about half a block apart.

Q. But you own them and operate them?

A. I beg your pardon.

Q. But you own them and operate them, both stores, you operate both stores?

A. Yes, sir.

Q. Now, what are the general lines of merchandise handled by you in those two stores?

A. Clothing, shoes, dry goods, and the general line of variety, you know what the usual run of variety merchandise would be. Notions, novelties, hardware, toys, candy, to name a few.

Q. Mr. Carlson, what are the prime sources of supply for your merchandise in these two stores?

A. Chicago and St. Louis.

[fol. 1144] Q. And how about St. Joe, Missouri, and Kansas City, Missouri, do you get merchandise from there?

A. I have some from Kansas City and some from St. Joe, Missouri.

Q. I believe you said St. Louis.

A. St. Louis, practically all of my shoes and dry goods come out of St. Louis.

Q. Now, how has your merchandise been moving in from these out of State points?

A. Well, it moves——

Q. So far as it gets to your store?

A. In the past, up until the last six months it has nearly all came and been delivered by the Rock Island Motors. It moves from St. Louis by Bruce and Watson, from St. Louis to Des Moines; and then the Rock Island Motors has delivered it from there in the past. However, lately the Rock Island Motors doesn't get that freight. The Iowa-Nebraska Transportation Company gets it, and there is always a delay of about one or two days in Des Moines or somewhere along the line, probably in Des Moines.

Q. State whether or not you have specified routing by either Bruce or Watson to Des Moines and Rock Island Motor Freight from Des Moines out to Colfax?

A. I have that instruction with all of the shippers, and that instruction has been followed. I would say that Bruce will turn it over to the Rock Island while Watson never does.

Q. Watson goes contrary to your routing?

[fol. 1145] A. That is right.

Q. And turns it over to the Iowa-Nebraska. You don't know what arrangement there is between Watson and the Iowa-Nebraska?

A. I don't know. I know when it is routed by Bruce, they will turn it over to the Rock Island Motors, but I haven't had a shipment carried by Watson from St. Louis that has been delivered by any one but Iowa-Nebraska.

Q. You don't know whether there is some conspiracy or combination between Watson and Iowa-Nebraska?

Mr. Fowler: Objected to as improper examination, leading, suggestive and argumentative. No basis for that question.

Exam. Carpenter: The objection sustained.

By Mr. Nolan:

Q. How about your shipments from Chicago, how have those shipments been moving?

A. They have been moving by Rock Island Motor Freight.

Q. And is that at your request?

A. Yes, sir.

Q. And how about from Kansas City and St. Joe, Missouri?

A. You see the Rock Island doesn't serve St. Joe, and some other carrier has to carry it, as I understand it, to Des Moines, and it comes, Watson usually handles that. I have instructed the Smith Brothers Manufacturing Company to ship via Watson, care of Rock Island Motors in Des Moines, but it is nearly always delivered by the Iowa-Nebraska Transportation Company.

[fol. 1146] Q. Again disregarding your routing via Des Moines, Iowa?

A. Yes, sir.

Q. Now, what is the matter with the Iowa-Nebraska's service out of Des Moines?

A. Well, there is nothing the matter with it, only they come once in a while. There is no regular schedule, and my freight is held up two or three days before it is delivered, and the Rock Island Motor delivers every day.

Q. Now, the service from Chicago, is that a daily service by the Rock Island Motor Transit Company?

A. Yes, sir.

Q. And how is the service from Kansas City? Is that direct by the Rock Island Motor Transit?

A. Yes. I don't have frequent shipments from Kansas City, however. There is only one firm I buy from in Kansas City and that is the Fitts Dry Goods Company.

Q. The bulk of your dry goods come from Chicago or St. Louis?

A. Yes, the bulk. I have other points, the origin point,

but it is not as frequent as Chicago and St. Louis.

Q. With what frequency do you get shipments in your business from out of State points?

A. Practically every day. Maybe not every day but every other day. I think it averages a shipment every other day in one of the stores.

Q. What ordinarily are the size of these shipments?

[fol. 1147] A. Well, an average size would be, well, I don't know just what an average size may be, between five hundred and one thousand pounds. That is my average size of shipments, although I have had some three thousand pounds.

Q. Have you ever had any shipments in excess of five thousand pounds?

A. No, I haven't.

Q. Your merchandise is such character, you ship quite a few shoes and coats?

A. Well, I can pay for not over three thousand pounds, probably.

Q. You could get a lot of coats in a three thousand pound boundary?

A. Yes, you could.

Q. Or a lot of shoes in a three thousand pound boundary?

A. Yes.

Q. How long have you been in business in Colfax?

A. Five years.

Q. And have you used the Rock Island Motor Transit Company's service almost exclusively during that period?

A. Yes, sir.

Q. Do you know of any other motor carrier that gives regular daily service to Colfax other than the Rock Island Motor Transit Company?

A. So far as I know there isn't any.

[fol. 1148] Q. And what would be the effect upon your company's business, you are not a company, are you?

A. Well, I am a company but I am not incorporated.

Q. What would be the effect on your business there in Colfax if the Rock Island Motor Transit Company's service were terminated or else materially or substantially reduced?

A. Well, it would have an adverse effect on my ability to

get my merchandise in quickly and on time. After all, speed is very essential in our business. We have items that sell out and we want to reorder quickly, and if we take it out of Chicago, it is shipped this afternoon in Chicago and it is delivered to our place at eleven o'clock the next day. That is fast service, and that is important to me.

Q. Now, have you had any experience with claims with other carriers, other than the Rock Island Motor Transit Company?

A. Yes, I have. I have had some claims that are pending since last November and haven't been settled yet.

Q. Was that against the Rock Island Motor Transit Company?

A. No, sir

Q. Against what company?

A. The Iowa-Nebraska Transportation Company.

Q. And in addition to the time and service, are there other factors that enter into a satisfactory service, claim service, or tracing shipments, etc.?

A. Yes, sir.

[fol. 1149] Q. You say you have had some claims pending against the Iowa-Nebraska since last November, is that correct?

A. Mmmmhuh.

Q. Have you attempted to get a settlement and adjustment on those claims?

A. I have applied. Their driver has agreed to take care of it. However, he finally the other day stopped in and examined it and in the next few days I got a claim paper from the Iowa-Nebraska. I filled it out and filed a claim with them now, which is about three weeks ago, but I can't, it was very unhandy to try to get someone to take care of my complaint on breakage. It was a concealed breakage, concealed damage.

Q. What facilities does the Rock Island Motor Transit Company have for servicing your business there in regard to being able to contact a representative of the company, dockage, and things of that character?

A. Well, the local transferman is their agent, so far as in my dealings with the Rock Island Motor is concerned, Charley Elliott.

Q. Does he have a dock or warehouse?

A. He doesn't have a dock, I don't think, a special dock for the Rock Island.

Q. Does he handle freight for other truck lines?

A. No, he doesn't.

Q. Does the Iowa-Nebraska have a local representative, [fol. 1150] or deliver off their line trucks?

A. Off their big line trucks.

Q. So, in order to make claim after you discovered some defects or loss of freight——

A. I would have to telephone Avoca.

Q. Avoca, Iowa?

A. That is what I was told if I can not contact the driver.

Q. Or else catch one of the drivers. Colfax is what, one hundred twenty miles from Avoca?

A. No, it is farther than that, I believe. I am not too sure how far that is.

Mr. Nolan: I think it is about one hundred twenty. That is all.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Fowler:

Q. Does the Iowa-Nebraska Transportation Company have a terminal in Des Moines, Iowa?

A. I couldn't say. I don't know.

Q. How far is it from Colfax to Des Moines?

A. Twenty-three miles.

Q. With respect to these claims you are talking about against the Iowa-Nebraska, you had not filled out any claim papers until about three weeks ago?

A. No, sir.

Q. Does the Rock Island Motor Transit pay claims when [fol. 1151] you haven't filed any claim papers?

A. They at least furnish me with an inspection and claim papers.

Q. My question was, does the Rock Island Motor Transit pay your claims unless you file claim papers.

Mr. Nolan: That is objected to as not proper cross-examination. The question has already been answered. The question is argumentative.

Exam. Carpenter: Overruled.

A. No one would pay claims.

By Mr. Fowler:

Q. Whom do you contact with respect to claims against the Rock Island Motor Transit?

A. Charles Elliott, Colfax.

Q. Is Charles Elliott the local cartage man?

A. Yes, sir.

Q. And does he handle pick-ups for the Rock Island Railroad and the Rock Island Motor Freight?

A. Not for the railroad. He has nothing to do with the railroad claims. If I have anything on the railroad, I contact the Rock Island agent.

Q. Supposing you have a shipment that is going to move in by rail, and you have any matters in connection with that, whom do you contact?

A. The Rock Island Railroad agent.

Q. And do you do any shipping by rail into Colfax?

A. Some. Some freight comes in by rail, yes, sir.

[fol. 1152] Q. What rail freight service do you have at Colfax?

A. The Rock Island.

Q. And is that daily?

A. Well, I imagine it is. I think it would probably be daily service. However, my service on the railroad is about two weeks from Chicago.

Q. But there is a way freight service into Colfax daily, isn't that right?

A. Yes. Yes, sir.

Q. And I suppose a rail shipment moving from Chicago would move by merchandise car to Des Moines, would it not?

A. I think so.

Q. And then would be transported to Colfax from Des Moines by truck?

A. Well, I could not tell you that because I don't know it.

I do know it takes two weeks for rail freight to get from Chicago to Colfax.

Q. Yes. I think you told me you had excellent service from Chicago to Colfax by the Rock Island Motor Transit?

A. Yes, sir.

Q. In other words, a shipment which leaves Chicago tonight would be delivered to your place of business the next day?

A. Yes, sir.

Q. So, obviously, there is a through truck movement from Chicago to Colfax. Now, on the railroad billing, a shipment, [fol. 1153] do you understand a shipment would move either by truck or by rail even though it was on rail billing?

A. No, I don't know anything about that.

Q. And did you know even if the shipment was transported from Chicago to Des Moines by merchandise car, it still would be delivered to you by truck? Did you know that under the present arrangement?

A. I don't know.

Q. You have been served by the Iowa-Nebraska Transportation Company on your St. Louis shipments since the interline arrangement was changed?

A. Yes, sir.

Q. So at the present time you have available to you at Colfax, daily service by the Rock Island Railroad, daily service by the Rock Island Motor Transit, and a service by the Iowa-Nebraska Transportation Company which you say is not daily?

A. Yes, sir.

Q. The Kansas City shipments are handled direct Motor Transit, Kansas City to Colfax. Is that a through truck movement?

A. I don't know. About all I can tell about it is who renders the freight bill. Sometimes it will tell on there, but I don't recall how the Kansas City freight bills are. I believe it is all Rock Island Motor.

Q. You do, do you not, have some shipments come through that are billed "Rock Island Railroad" that come in to you by truck?

[fol. 1154] A. Well, now, I really don't know who delivers them to Colfax. After it arrives in Colfax this Elliott delivers with his truck.

Q. And that is irrespective whether it is on rail billing or motor freight billing?

A. Yes.

Mr. Fowler: That is all.

Redirect examination.

By Mr. Nolan:

Q. Now, Mr. Carlson, state whether or not the service which you receive from the Iowa-Nebraska Transportation Company is satisfactory or not.

A. Well, it isn't as satisfactory as the Rock Island Motors. Their service is not as good. It is much slower. It is harder to get claims, I will say that.

Q. Now, on these shipments which have come in by rail, is it fair to say they were shipments which originated either in the northeast seaboard or southeastern States of this country?

A. You mean consigned to me from there?

Q. Yes.

A. I don't have anything other than New York State. That is as far east as I would have anything. There is some in North Carolina at that.

Q. What I am getting at, the shipments which do come in by rail are shipments which originate beyond Chicago, either to the east or southeast?

A. Both.

[fol. 1155] Q. Would you get any shipments that originate in Chicago which are shipped out by rail?

A. Yes.

Q. Is that by your specification or the shippers?

A. No, the shipper has crossed up my shipping instructions if they do.

Q. Some clerk thought it was the Rock Island Railroad?

A. I imagine that is what happens.

Q. Instead of the Rock Island Motors?

A. They send it Rock Island rail.

Q. You don't mean to tell the Commission here the Rock Island Railroad provides a daily service from Chicago to Colfax, do you?

Mr. Fowler: Just a moment. That is objected to as leading and suggestive, inasmuch as the witness has now testified, the witness has testified he does have a daily rail service.

Exam. Carpenter: I will sustain the objection. Reframe your question.

By Mr. Nolan:

Q. Now, Mr. Carlson——

Mr. Fowler: Just ask him the direct question instead of telling him how to answer it.

Exam. Carpenter: That should come off.

Mr. Fowler: I will apologize.

Mr. Nolan: You will apologize to me?

Mr. Fowler: No.

[fol. 1156] By Mr. Nolan:

Q. Mr. Carlson, do you know whether or not the Rock Island Railroad provides a daily service from Chicago to Colfax for rail freight?

A. I don't know to be sure, to be honest about it. I don't know whether it is a daily service or not.

Q. You do know there are freight trains go through Colfax and freight trains stop there?

A. Yes.

Q. I believe you testified a shipment coming by rail from Chicago took several days' time?

A. Yes.

Mr. Nolan: That is all.

Exam. Carpenter: Recross.

Mr. Fowler: That is all.

(Witness excused.)

Exam. Carpenter: We will adjourn for lunch until 1:45 p. m.

(Whereupon at 12:15 p. m. a recess was taken until 1:45 p. m. of the same day.)

AFTERNOON SESSION 1:45 p. m.

Exam. Carpenter: Now, we will proceed.
Mr. Nolan: Mr. Brenner.

GEORGE BRENNER was sworn and testified as follows:

[fol. 1157] Direct examination.

By Mr. Nolan:

Q. Will you give us your name, place of residence and occupation?

A. George Brenner, President and Manager, Colfax Mineral Springs Company, Colfax.

Q. What is the name of your company?

A. Colfax Mineral Springs Company.

Q. Well, now, will you describe briefly for the record what your company produces, manufactures or processes?

A. The Colfax Mineral Springs Company has developed and is now producing a new type of soft drink, calorie free, sugar free. The nature of the product is such that it was publicized as a news item, and rather rapidly we have gained modest distribution throughout the Nation. Transportation, of course, was one of the factors in that sort of take-off, the nature of the operation. Orders are mostly small, two hundred pounds up to five thousand, but it would run from two hundred to two thousand.

Q. You are speaking about outbound shipments now?

A. Outbound shipments, and they come from all over the United States, considerable in the State of Iowa. Our delivery medium has been handled by the Rock Island Motor Freight very satisfactorily.

Q. Now, how long has your company been in business?

A. Well, the original firm goes back to 1882. I have [fol. 1158] been with them since 1941. This new development took place less than two years ago, and previous to that the shipping has been of a local nature.

Q. As I understand this product which your company produces is shipped in interstate commerce?

A. That is right.

Q. Throughout the entire country, is that right?

A. That is right.

Q. Now, what inbound shipments do you have, Mr. Brenner?

A. Supplies, mostly from Chicago, principally from Chicago.

Q. And those are ingredients you use in this production?

A. They are ingredients, yes.

Q. And what are the size of those shipments?

A. Small amounts, several hundred pounds average.

Q. And with what frequency do your inbound shipments come in to your place?

A. Several a week, several shipments a week.

Q. And how about outbound shipments?

A. They occur every day.

Q. Now, I believe you said in regard to your outbound shipments, have been handled almost exclusively by the Rock Island Motor Transit?

A. That is right.

Q. And how about your inbound shipments?

A. The same.

[fol. 1159] Q. Have you specified how your inbound shipments have moved where you can?

A. Yes, by experience several shipments vitally needed shipments were delayed in transit when shipped by which way, and we have learned by experience that we can depend on the experience, service that we need. Due to the nature, the newness of the product we can not store all of the supplies, buy all of the supplies right at the store. What we must have we must have in a hurry, and we have found that the Rock Island delivers goods on time.

Q. Now, do I understand most of those inbound shipments come either from Chicago or through Chicago?

A. Mostly from Chicago. That is quite the headquarters for most of my supplies.

Q. And what has been the nature of the service in regard to time from Chicago to Colfax?

A. Within forty-eight hours. That is very vital in our operations because, as I say, it is new, and our orders come as they come, and they have to be filled as they come. They

are not yet of a routine nature, and we can schedule neither our supplies nor our orders.

Q. Now, in regard to your outbound shipments, I assume they move out by Rock Island Motor Transit, and then are transferred to other trucking companies for destination?

A. I believe so. I believe distant points, and certain [fol. 1160] points, there are no direct connections. They are transferred.

Q. Points off of the Rock Island Motor Transit System, they interline with other trucking companies?

A. That is right.

Q. Now, you say you have had experience with other trucking companies bringing in products to your place of business?

A. That is right.

Q. And how long ago was that?

A. That was about a year ago and it tied us up pretty bad where we had to 'phone for a reshipment. The delay in getting the original shipment was more than ten days. We just couldn't stand it, couldn't wait that long.

Q. And do you recall what carrier performed that service?

A. I don't recall. We might not specify, and it was shipped by a certain truck line. I don't recall the name.

Q. You can control and do control your outbound shipments, and, as I understand, you take the Rock Island Motor Transit?

A. That is right. That is right.

Q. Do you know, Mr. Brenner, of any trucking company that provides the same regular service in and out of Colfax, so far as your company is concerned, that the Rock Island Motor Transit Company has been giving you?

A. I don't know of any. To the best of my knowledge there would be none available to render the kind of service, the daily service we require.

[fol. 1161] Q. Now, what would be the effect upon your company's business if the Rock Island Motor Transit Company were required to terminate its operations in and out of Colfax or materially reduce the service now provided, or which has been provided by the Rock Island Motor Transit in Colfax?

A. As the situation stands today it would be ruinous to our place of business because it is new and undergoing its growth development, and the nature of the product is such it is bought on impulse, and it is expected right now due to various requests as indicated by the letters from customers. Prompt service is vital or the customer would be inclined to forget about it, and that has happened once or twice when we simply mislaid an order in our office and shipped a couple of weeks later, and it was not accepted.

Q. I will ask you, Mr. Brenner, the peculiar nature or ingredients of the Colfax water, which comes out of the ground at Colfax, is used in your products?

A. That is right.

Q. Your location in Colfax is peculiar because of the water supply there, is that right?

A. That is right. That is a factor that has to do with the acceptance. It is a plus acceptance of the product.

Q. Now, for the record and those who may read it and are not familiar with the Colfax mineral water, state whether or not that is a particular type of water that [fol. 1162] comes out of the ground in Colfax that has certain characteristics not found in water in other parts of Iowa, or in the midwest?

A. Definitely so. I won't go into the technical angle of it, but, for the record, it is one of the five therapeutic mineral waters of the world recognized by the American Medical Association. I am very proud of that fact, and naturally exploit the characteristics of the water in our operations.

Q. It is one of the principal ingredients in your products?

A. That is right.

Q. And what is the fact whether or not Colfax, Iowa, by reason of the mineral water that is found there, has been known as more or less of a health resort for many, many years?

A. Well, that is the plus value to the nature of the product; for this sugarless product is consumed largely by people in delicate health, diabetics, and others, and the therapeutic value of the water by its reputation is a great factor.

Mr. Nolan: I believe that is all.

Exam. Carpenter: Cross-examine.
Mr. Fowler: That is all. Thank you.
Mr. Nolan: You are excused, Mr. Brenner.

(Witness excused.)

Mr. Nolan: Mrs. Fesler.

MRS. DAN FESLER was sworn and testified as follows:

Direct examination.

[fol. 1163] By Mr. Nolan:

Q. Will you give us your name, place of residence, and occupation?

A. Mrs. Dan Fesler, and we have the Dan's Wholesale Foods in Coralville.

Mr. Fowler: I didn't get it.

A. Dan's Wholesale Foods in Coralville, Post Office, Iowa City.

By Mr. Nolan:

Q. Now, Coralville is an unincorporated town located immediately west of Iowa City, is it not?

A. Yes.

Q. And it is probably the fastest growing town in Johnson County?

A. Yes, definitely.

Q. What is the population of Coralville?

A. I don't know what it is now.

Q. Around one thousand?

A. It is going over the one thousand mark.

Q. You and your husband are engaged in a wholesale business there, I think?

A. Yes.

Q. And what merchandise do you handle in your wholesale business?

A. Foods.

Q. Does that include candies and tobacco?

A. No tobacco. Candies, cookies, potato chips, pickles, mustard, and that food line.

[fol. 1164]. Q. And in what territory do you job your products?

A. We have a fifty mile radius.

Q. And you sell to retail outlets, or to the consumer direct?

A. No, every retail outlet.

Q. Do you have salesmen on the road?

A. Yes.

Q. Now, what is the source of supply of your products? Where do you get your merchandise?

A. All over the United States, various.

Q. How do those shipments come in to your place of business, how have they been coming in?

A. They have been coming in mostly by Rock Island Motor Transit, or came by the Rock Island Motor Transit, I should say.

Q. Now, Coralville was located immediately on U. S. Highway No. 6, but now it is off to the side, is it not, since they rerouted No. 6?

A. Yes.

Q. And in what sized shipments do you ordinarily have your product come in?

A. Well, each individual shipment is, only they are small shipments, one hundred fifty pounds to maybe three hundred fifty pounds, but there are several shipments each day.

Q. And from what principal points do you get those shipments, out of State points?

A. I would say the most of them are from Chicago.

[fol. 1165] Q. Either Chicago proper or through Chicago?

A. Or through Chicago, Mmmmhuh.

Q. And you say those shipments have been coming in by Rock Island Motor Transit?

A. Yes.

Q. Have you had experience with any other highway transportation companies in bringing shipments in to your place?

A. Just an occasional delivery.

Q. And what experience have you had in that respect?

A. It hasn't been very good.

Q. What has been the difficulty?

A. It hasn't been very prompt. We get twenty-four hour service from the Rock Island Motor Transit, or, in other words, they get the merchandise in the morning and it is out there the same day. We have had these other deliveries that come into Iowa City one day and get them four or five days later.

Q. State whether or not the Rock Island Motor Transit is the only transit company that delivers direct to Coralville, if you know?

A. Well, we do have one other transport there, one other trucking firm that has come out there a time or two.

Q. What company is that?

A. Mahers.

Q. Mahers. That is the Maher Transfer Company in Iowa City. They deliver for some other company?

[fol. 1166] A. Yes, but that is all.

Q. Maher doesn't have an over-the-road operation any more?

A. No.

Q. Any shipments that they handle are delivered from Iowa City to Coralville, isn't that right?

A. Yes.

Q. And you say what experience you have had in this respect has been delayed three or four days?

A. Yes.

Q. Do you know of any other transportation agency that will give you the same type of service you have been receiving from the Rock Island Motor Transit?

A. No, I know of none. I know there is none.

Q. Have you tried to get other service?

A. Yes. Yes, I have.

Q. And what would be the effect upon your company's business if the service of the Rock Island Motor Transit Company was terminated or substantially reduced in service?

A. Well, I know what that does. That throws things into a turmoil for us. That gets our merchandise out there too late, and it also throws a lot of extra work on my shoulders because I have to go into Iowa City and pick up that merchandise.

Q. Was there a time last summer or fall when the ques-

tion arose whether the Rock Island Motor Transit Company could serve Coralville, and you had to get some other service?

[fol. 1167] A. I had to pick it up.

Q. You had to pick it up in Iowa City?

A. Yes.

Q. There was a short period when some question arose as to the Rock Island Motor Transit Company's ability to serve Coralville?

A. Yes, that is right.

Q. And that was when you tried to get other service?

A. I have tried ever since to get, when the merchandise comes in, once in a while the merchandise will come in to another terminal, and I have asked them if they will bring it to Coralville, but they will not do it and I have to pick it up.

Q. In other words you have had experience with merchandise coming in over some other truck line to Iowa City where you didn't have an opportunity to direct the routing?

A. We always asked to have it shipped by the Rock Island.

Q. They don't always honor that?

A. That is right.

Q. And that is why you experience these delays?

A. That is right.

Mr. Nolan: I believe that is all.

Cross-examination.

By Mr. Fowler:

Q. Is Coralville located on U. S. Highway 6?

A. Old U. S. Highway 6, in other words.

Q. Well, where would it be with respect to the new road?

A. It would be north.

[fol. 1168] Q. About how far?

A. About two blocks.

Q. And how far is Coralville from Iowa City?

A. Three miles.

Q. And the Maher Transfer Company you spoke about is a local transfer agent in Iowa City?

A. Yes.

Q. And I think the record shows that he does the cartage and the transfer work for these other carriers such as the Iowa-Nebraska, and Des Moines Transportation Company. Are you acquainted with that?

A. Yes, that is right.

Q. And shipments handled by those carriers would be delivered to the Maher Transfer Company at Iowa City and the Maher Transfer would bring them out to you at Coralville, isn't that the way you received it?

A. Yes.

Q. I assume on the outbound shipments you handle those on your own trucks?

A. That is our daily deliveries we handle on our own trucks. However, we do have cardboard cartons and spoilage merchandise.

Q. That is sent back to Chicago?

A. That is sent back to Chicago, Mmmmhuh.

Redirect examination.

By Mr. Nolan:

Q. How are those return shipments being made?

[fol. 1169] A. By the Rock Island Motor Transit only.

Mr. Nolan: I believe that is all.

Exam. Carpenter: You are excused.

(Witness excused.)

Mrs. Edith Blakesley was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Mrs. Blakesley, will you give us your name, place of residence, and occupation?

A. Edith Blakesley at Menlo.

Q. Is that Miss or Mrs.?

A. Mrs.

Q. At Menlo, Iowa. I believe you testified in the other hearing in this case, Mrs. Blakesley?

A. Yes, sir.

Q. And will you tell us again what type of business you operate at Menlo?

A. A variety store, also dry goods.

Q. A variety and dry goods store. Now, what makes up a variety store?

A. Almost everything. I don't handle any foods except candy.

Q. Is that wearing apparel?

A. Wearing apparel, dishes, pictures, Oh, all sorts of notions, school supplies.

Q. And school supplies. I believe you testified at the other [fol. 1170] hearing that you had merchandise coming from both the east and the west.

A. I do.

Q. From Chicago points and points east of Chicago?

A. Yes, sir.

Q. And how about Omaha?

A. A great deal of the dry goods come from Omaha.

Q. And how about the Twin Cities and Kansas City, do you get any merchandise from those?

A. Yes, I get some from both places.

Q. How long have you been engaged in the business at Menlo?

A. For myself, four years.

Q. And had you been in business prior to that?

A. I worked for Mr. Hays. He had the store there.

Q. Now, with what frequency do you get shipments say from Chicago, Mrs. Blakesley?

A. That depends on what time of the year. Sometimes in the fall of the year when I am getting orders for Christmas, it comes in frequently. Sometimes at other times of the year it doesn't come in that often.

Q. How about your school books?

A. I buy most of those in Des Moines, and they are brought out by Wagner Motor Freight mostly.

Q. How about your shipments from Omaha, how frequently do you get goods from there?

[fol. 1171] A. Oh, possibly once or twice a month.

Q. And how about the Twin Cities and Kansas City?

A. That is not so frequent. I know some things I buy altogether from St. Paul, and they come in possibly two or three times a year.

Q. Now, what transportation agency have you been using for these out of State shipments, primarily?

A. Well, my dishes come from Dubuque. That is not out of State. That comes by Rock Island Motor Freight. That comes very satisfactorily.

Q. What about your Chicago merchandise?

A. That came the same way.

Q. Freight that has been coming that way since you have been in business there?

A. Yes, practically all of the Chicago merchandise come by Rock Island Transit.

Q. How about your St. Paul freight, how does that come in?

A. Well, I had one shipment that came down by Watson and transferred. Watson picked it up and took it out. I have had the Nebraska and Iowa come in from Omaha and deliver a few times.

Q. How do you ordinarily get your merchandise out of Omaha?

A. Well, it usually comes either by Rock Island Motor Transit and part of the time by Iowa-Nebraska.

Q. Do you specify how your shipments are to come from Omaha?

A. No, I never have. They have shipped the cheapest [fol. 1172] way, and they send them out either way.

Q. From what company would you say you get the majority of your merchandise into Menlo, by what transportation company?

A. What I get from Des Moines, and I really do more buying from Des Moines, comes by Wagner Motor Freight.

Q. He has the local rights from Menlo to Des Moines?

A. That is right.

Q. The Rock Island Motor Freight doesn't have the local rights between Menlo and Des Moines?

A. No.

Q. I mean from out of State points.

A. The Rock Island Motor Freight brings me in more than any other.

Q. And has that service been satisfactory?

A. Yes, sir.

Q. And how does that service compare with the service you get from the Iowa-Nebraska?

A. I have never had very much complaint against any of them.

Q. Does the Iowa-Nebraska have an operation in there every day?

A. No, they don't have. He comes in about a couple of times a week.

Q. About a couple of times a week?

A. Yes.

Q. And how frequent is the Rock Island Motor Transit's service?

A. Every day.

[fol. 1173] Q. Now, would the elimination of the Rock Island Motor Transit's service be adverse to your business interests there or not?

A. Yes, I think it would, especially around Christmas time when people demand a certain thing, and have made a special order for it and want it right away, and I think you would lose your sale of it.

Q. That is particularly from Chicago?

A. Yes, and from Dubuque.

Mr. Nolan: I believe that is all.

Exam. Carpenter: Cross-examine.

Mr. Fowler: No cross.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Nolan: The next witness is Mr. Hayes from Casey.

O. E. Hayes was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you give us your name, place of residence, and occupation, Mr. Hayes?

A. O. E. Hayes, Casey, Iowa, a so-called merchant, I guess.

Q. You are in the general merchandise business at Casey?

A. Yes. Floor covering is one of our bigger things.

Q. Now, what size is the town of Casey?

A. About eight hundred.

Q. And how long have you lived there?

[fol. 1174] A. Twenty-four years.

Q. And how long have you been in the general merchandising business?

A. Twenty-four years.

Q. Have you been engaged in any other business besides that?

A. No.

Q. You weren't in the transfer business or in the trucking business at one time?

A. No.

Q. And how far west of Des Moines is Casey located?

A. I believe fifty-five miles.

Q. And that is on U. S. Highway No. 6?

A. Yes, sir.

Q. And also on the main line of the Rock Island?

A. Yes, sir.

Q. Now, you testified before in this case, and will you tell us again where you have your shipments come from that come from out of State points?

A. Well, Omaha mainly. We have some from Chicago, some from Morris, Illinois, Kansas City, and St. Louis.

Q. What transportation agency has provided you with service for these shipments?

A. Definitely, the Rock Island.

Q. Why do you say "Definitely, the Rock Island"? Do you mean the Rock Island Motor Transit?

[fol. 1175] A. In years gone past we had a little experience with other lines, that is from interstate, these out of State shipments, and they weren't satisfactory.

Q. Well, now, when you say "Rock Island", you mean the Rock Island Motor Transit?

A. The Rock Island Motor Transit.

Q. Do you specify, and have you specified the Rock Island Motor Transit's service for these out of State shipments?

A. Yes.

Q. And will you state for the record why you did that?

A. The reason we liked the Rock Island's service, either out State or in State, was because they maintain a regular schedule. On some of these other lines that we have had experience with, we are as liable as not to be called back to the store in the evening or sometimes even in the morning before we open our store.

Q. Well, now, you say the Rock Island Motor Transit maintains a regular schedule into Casey?

A. Every day.

Q. And do you know, is that peddled direct from Des Moines, or peddled some other way? Do you know how the physical operation of that peddle run is operated?

A. Yes, I think, if I understand you right, any goods that might come in from out of State probably is shipped to Des Moines and comes to Casey by truck. Even rail merchandise [fol. 1176] is brought in by truck, I believe.

Q. Well, how about from Omaha, do you know how that merchandise comes in?

A. I believe that is the same. Of course, there is one other line that brings merchandise out of Omaha, too.

Q. I am talking about the Rock Island Motor Transit.

A. The Rock Island comes direct.

Q. Now, you say you have had experience with other carriers hauling merchandise to your business at Casey, and that experience was unsatisfactory you say?

A. Yes.

Q. And just tell us what the difference was between the service you received from these other carriers as compared with the service you received from the Rock Island Motor.

A. Well, I think I stated the biggest objection I have is to no particular schedule, and the fact that they—I am talking about the experience I have had?

Q. That is right. That is all we are asking you about.

A. And they were, perhaps, as liable to bring merchandise into the town, and I would have to go back to the store outside of regular hours.

Q. I see.

A. And in reference t that, that happened a time or two

when my wife was alone, and she was called to the store at night, which didn't please her too much to let some truck [fol. 1177] driver unload some merchandise. In fact I would hate to tell you what she said.

Q. Now, Mr. Hayes, as I understand it, there are other trucking companies that operate through Casey?

A. You mean interstate?

Q. Yes, that go through Casey?

A. Oh, yes.

Q. You see a great many trucks go through town every day, do you not, by different trucking companies?

A. Yes.

Q. Now, there has been some reference made to the Iowa-Nebraska Transportation Company as serving that area out there. Have you had some shipments brought in by that company?

A. Oh, yes.

Q. And is that one of the companies that brings them in at irregular hours and not on schedule?

A. No, I wouldn't say that. The objection I have to the Iowa-Nebraska in preference to the Rock Island, is that they don't maintain daily service, and that might, that might contain some bad features.

Q. It has been your experience, as I understand your answer, is that the Iowa-Nebraska has around twice a week service?

A. I believe that is what they come.

Q. But the Rock Island Motor Transit has daily service both ways?

A. That is right.

[fol. 1178] Q. Now, for your shipments from Kansas City and Minneapolis, have they come in by Rock Island Motor Transit?

A. Yes.

Q. And you mentioned something about even rail freight comes in on the Rock Island truck.

A. That is the thing I am very hopeful that we will continue to have Rock Island Motor service. In our particular territory, in other words, in my particular town, while the Rock Island Railroad, I think, are supposed to give, I might be wrong on this, but I think they are supposed

to give storedoor delivery. Now, the only way that I get storedoor delivery from the Rock Island Railroad is through the good graces of the Rock Island Motor Transit driver. As long as you treat them very nice, they treat you very nice, and they will unload at times the railroad freight in my store.

Q. Instead of taking it to the depot?

A. Mmmmhuh.

Q. Now, have you had experience, I will withdraw that.

Q. Do you order sometimes by rail freight rather than motor truck freight?

A. Well, I have merchandise come in that way. I wouldn't say I have ordered it that way. I think possibly, in other words, in our business we are like a lot of other businesses, we sometimes forget to route merchandise the way it should be, and we just neglect to. Then it is liable to come in different ways.

[fol. 1179] Q. It might come in on rail billing, is that right?

A. Yes, rail billing.

Q. You don't know why it would be shipped that way. Is it fair to say a shipment that comes in on rail billing generally originates at points east or southeast of Chicago at some far removed point?

A. Well, our shipments in those cases, yes, I would say that. Our shipments in those cases are not as heavy as what our Omaha, or Des Moines, or some of our closer towns would be, but that probably is true.

Q. The point I am trying to make is, you might have some merchandise, such as a uniform linoleum——

A. Yes, I really do.

Q. Floor covering, and things of that character, if that should happen to be manufactured at some remote point in the Carolinas or somewhere in the eastern seaboard territory, might that not come in on rail billing than motor freight billing?

A. We don't get any linoleum excepting through our jobbers here in Des Moines and through Omaha.

Q. Now, as between motor truck freight and rail freight, which do you prefer?

A. Which do I prefer of the two?

Q. Yes.

A. I don't believe I caught you.

Q. Would you sooner have a shipment come in on motor [fol. 1180] truck billing or rail billing whether it moved by rail or truck?

A. I definitely would. If you would see me unloading five hundred forty pounds of linoleum you would see why.

By Exam. Carpenter:

Q. You would rather have it come in on motor carrier billing than rail billing?

A. Definitely.

By Mr. Nolan:

Q. Now, what would be the effect on your business there if the services of the Rock Island Motor Transit Company were terminated or substantially reduced?

A. Well, that is a question that would have to be answered in this way. If nobody would take their place I certainly would quit the linoleum business.

Q. What about the other general merchandise business?

A. Oh, I suppose I would buy a truck of my own.

Q. Do you know of any other transportation company, trucking company, that provides the same type of service that the Rock Island Motor Transit provides at Casey?

A. As good a service?

Q. The same type of service, as good a service?

A. Definitely not. The Rock Island Motor is the only people that give us daily service, and give us regular service.

Q. Have you had any experience with claims of the Rock Island Motor as compared with other companies?

A. Well, I wouldn't say I had claims in so many years, so many years, I don't believe I have had any claims with [fol. 1181] any other companies. Most of my claims, I think, have been with the Rock Island Motor, which were satisfactory.

Q. As I understand it the majority of your shipments come in by Rock Island Motor?

A. Yes, altogether if I think about it.

Q. If you have anything to say about it?
A. Yes, sir.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Fowler:

Q. Casey is located on U. S. Highway 6?
A. Right.
Q. And served by the Rock Island Railroad?
A. Right.
Q. Is there a railroad agent at Casey?
A. That is right.
Q. And is the motor carrier freight and the railroad freight both handled down there at the depot on the same dock?
A. Well, I don't believe that the Rock Island Motor Freight use the dock there. I don't believe they do, unless it would be something to be delivered in the country.
Q. At Casey they don't have any pick-up and delivery truck operating and deliveries are made from the over-the-road truck?
A. That is right.
Q. So, if you received a shipment from the Rock Island Motor Transit, it is delivered to your door, the storedoor delivery?
[fol. 1182] A. Yes, storedoor delivery.
Q. And I think you have said that is true also for your railroad freight?
A. No, I did not say that was true.
Q. Well, your railroad freight comes out on the same truck with the motor carrier freight?
A. That is only out of the goodness of the truck driver's heart. If he wants to deliver it to you, this is what he would do. May I explain?
Q. Sure, sure.
A. He would get the agent, and the agent and he will deliver my goods, see, but it isn't one hundred per cent that way. There are times, in other words, if you change a truck driver and until you got acquainted with him, he would possibly unload at the depot.

Q. They don't maintain any delivery service on railroad freight at Casey?

A. That is right.

Q. And the only way you get it delivered is you are nice to the truck driver?

A. That is right.

Q. Putting it frankly, you do have rail billed shipments come in?

A. Oh, yes.

Q. And they are handled on the same truck as the motor freight shipments?

[fol. 1183] A. As far as I know all merchandise comes into Casey by truck, so far as I know, see.

Q. No local railway freight service into Casey?

A. Do we have a local railway service?

Q. Freight service on L. C. L. shipments?

A. That I can't answer.

Q. If there is any you don't know about it?

A. Well, of course, no doubt there are.

Q. But in so far as your contact is concerned, all of your freight, whether it is motor carrier freight or rail freight, is brought in on the same truck?

A. So far as I know it is.

Q. The Iowa-Nebraska serves the town of Casey?

A. That is right.

Q. But you say serves it probably on an every other day basis?

A. I think two times a week.

Mr. Fowler: O. K. That is all.

Exam. Carpenter: Redirect.

Redirect-examinaion.

By Mr. Nolan:

Q. Mr. Hayes, do I understand the fact to be there is no local rail service in Casey?

A. Yes, that is right. I think the railroad intends, their intention is to have one but the trouble is, maybe I am taking up too much time to explain what I am trying to say, their trouble is they don't have enough railroad freight that [fol. 1184] anybody will take the job of local drayage.

Q. All right.

A. They have taken, but they last a month or a week.

Q. Now, the fact is, is it not, the railroad does operate local freights in and out of Casey for carload business such as grain and livestock?

A. Oh, yes.

Q. Cement, lumber and things like that?

A. Yes, sir.

Q. Now, what is the fact as to whether or not when the truck driver has rail freight, that he first has to get the rail agent in order that the rail agent will be able to process or check that freight before it is delivered, and he hunts up the rail agent and brings the rail agent along to check the freight and delivers it direct rather than taking it to the depot where the rail agent can check it?

A. Now, do I understand you are asking me?

Q. Strike that whole thing. Did I understand you to say that when the truck driver delivers rail freight to your place of business, he first gets ahold of the rail agent, is that right?

A. Well, he should.

Q. Well, does he?

A. I think he does more or less.

Q. Do you know why he does that?

A. Do I know why he does it?

[fol. 1185] Q. Yes.

A. Absolutely. It isn't his responsibility.

Q. That is what I am getting at. It is not the truck drivers' responsibility to deliver it?

A. It is not his responsibility.

Q. Do you know whether or not he gets the rail agent so the rail agent can check that merchandise and clear the bills on it before it is delivered?

A. I would imagine so. That would be nothing more than good business.

Q. Then the freight that comes in on rail billing, that travels on a waybill, and the rail agent has to check that?

A. Yes.

Q. And that is the duty of the rail agent rather than the truck driver?

A. Oh, yes.

Q. And also the rail agent can help unload some of those big packages?

A. That is right.

Mr. Nolan: That is all.
Mr. Fowler: That is all.

(Witness excused.)

HOWARD LOEHR was sworn and testified as follows:

Direct examination.

[fol. 1186] By Mr. Nolan:

Q. Will you give us your name, please?
A. Howard Loehr.
Q. You live at Colfax?
A. I work for the Monroe Company in Colfax.
Q. What is the Monroe Company?
A. The Monroe Company is a manufacturing company. We manufacture folding tables and benches. We also sell folding chairs.
Q. That is a manufacturer of fixtures and furnishings of a certain type?
A. That is right.
Q. Now, as I understand it you manufacture goods for, like churches, lodges and organizations, hotels, requiring a special type of furniture?
A. Yes, the tables we ate on this noon we made.
Q. Over at the hotel?
A. Yes, bench tables.
Q. The food tasted better on those?
A. It did to me.
Q. Mr. Loehr, what is your capacity with the Monroe Company?
A. I am in charge of the shipping amongst other things, production and purchasing.
Q. How many employees do you have?
A. About sixty-five.
Q. What products does your company use in your manufacturing work?
[fol. 1187] A. We buy lumber, top material, which would be masonite, which is steel, and we process all of those

items and ship out the completed tables. We also buy folding chairs and resell them.

Q. From what sources do you get your raw materials that you process?

A. We have the lumber shipped in from the west coast. The masonite comes from Louisiana. The steel comes from Chicago, Omaha, or Pennsylvania.

Q. Does your lumber come in by rail, carload?

A. Yes, it does. The lumber, masonite, all comes by rail. We specify the steel by truck because if it comes by rail we have to unload it and haul it a block to our factory.

Q. You are not on rail siding?

A. No, we are not. We have a warehouse on rail siding where we unload the chairs, but the factory is not on rail siding.

Q. Now, what transportation agency have you been using to get in your steel and other smaller items that you use in your manufacturing work?

A. The steel that comes in is almost entirely truckload shipments, and that does not come Rock Island. They are not allowed to carry it. The small items that we use, we use paints, varnishes, nails, we get L. C. L. shipments of steel, those will come in, we specify Rock Island on those.

Q. They come in from the east, Chicago and points east?

A. Chicago, Des Moines, Omaha, and a few other places. [fol. 1188] Now, there is a very good reason for specifying, having the Rock Island bring that in. In the first place our shipments are daily, and the Rock Island hauls them out for us, so we know exactly when the items will come in. They will come in on the truck that hauls our tables out.

Q. We will get to the outbound shipments. Now, as I understand it, you have the demands for regular motor carrier service, for products and materials moving into your plant daily, is that right?

A. That is right. Another item is cartons, which comes in by the full truckload.

Q. Now, tell us whether or not your company used the facilities of the Rock Island Motor Transit Company for these truckload shipments prior to their limitations, prior to the limitation imposed on the Rock Island Motor Transit.

A. I think they did. I don't know.

Q. Were you with the company at that time?

A. No, I was not.

Q. How long have you been with the company?

A. A year and a half.

Q. Well, these limitations were on last summer, the restrictions, the latter part of the summer. Weren't you familiar with truckload shipments prior to that?

A. No, I wasn't.

Q. You have taken over the shipping department since then?

[fol. 1189] A. That is right.

Q. Now, what size would you say these shipments of paint, nails, varnish and things of that character that move into your place of business?

A. The smaller ones run ordinarily from one hundred pounds to, well, most of them are fairly small, under, two thousand pounds or under.

Q. And you say they come from the points of Omaha, Chicago, and other points?

A. Yes.

Q. Now, your outbound shipments, how do they move out and in what sized shipments do they ordinarily move?

A. We ship a full truckload every day, practically a full truckload. It is all picked up at our dock except for express and a few parcel post shipments. A sample chair will go parcel post. There are very few express shipments. Everything else is picked up at our dock by the Rock Island.

Q. In truckload quantities?

A. That is right.

Q. Well, what would be the weight involved there?

A. Well, it will average about forty different shipments to a truckload.

Q. I see. The individual shipments will be less than five thousand pounds, is that right?

A. Most of them are. That isn't always the case. There [fol. 1190] will be about once a week we will have a shipment that will exceed five thousand pounds.

Q. And might there be for some interior Iowa point where it would be an Iowa shipment rather than an interstate shipment?

A. Very seldom.

Q. You say you ship out about a truckload a day of various sized shipments?

A. That is right.

Q. Destined to all points in the United States?

A. We sell all over the United States. Ours is a mail order business. We sell direct to the user, very few sales to a dealer. Six per cent to be exact.

Q. Do you have salesmen on the road?

A. No salesmen.

Q. Mail order?

A. That is right.

Q. Now, what company, would you say the Rock Island Motor Transit is the one that handles the outbound shipments? A. Yes.

Q. Do you specify the Rock Island Motor Transit for those outbound shipments?

A. Well——

Q. You control them and direct that the Rock Island Motor Transit handle them?

A. That is right.

[fol. 1191] Q. Now, you say that you specify inbound shipments wherever possible for less than truckload quantities by the Rock Island Motor Transit, and also can control the outbound shipments by the Rock Island Motor Transit. Why do you do that?

A. Because we get service. We are very selfish. We have something and we like it.

Q. Well, in other words, do you find that the Rock Island Motor Transit's service is superior to any other service you can get there?

A. It certainly is.

Q. Both inbound and outbound?

A. That is right.

Q. Do you know of any company that provides the same daily service in and out of Colfax that the Rock Island Motor Transit does?

A. No.

Q. Have you made some inquiry to determine whether or not there is other service of equal or better quality?

A. We have tried some others.

Q. And what has been your experience?

A. It has been very unsatisfactory.

Q. Would you care to detail those experiences?

A. There is one particular truck company, personally I like the individuals that I have met. I think that once they get the material hooked-up that we have assigned [fol. 1192] to them, it gets delivered in pretty good shape. However, they state they will be in our shop every day up to two o'clock, two or three. They do not do that. Whenever we want them to make a pick-up, we call them. We close at 4:30. They are liable to get there after five or even after six.

Q. Where do you contact them?

A. Call Des Moines.

Q. Des Moines?

A. That is right.

Q. What would be the effect upon your—withdraw that.

Q. By the way, are you able to contact the Rock Island Motor Transit's daily schedule through a driver of the Rock Island Motor Transit or some agency of the Rock Island Motor Transit in Colfax?

A. That is right. We have three contacts. One of them is with, I believe, Charley Elliott is your agent there. I don't know his exact title.

Q. You say you have three contacts you mean with the Rock Island Motor Transit?

A. Every day. One is with Charley Elliott. One is the truck driver that picks up our freight every day, and the third is another Rock Island Motor Transit truck which hits other points and comes through Colfax and checks with us daily. Then, if the first truck can not take all of our freight, he will take the balance. During the past eleven weeks I imagine there has been fifteen times [fol. 1193] when he had to take part of our freight.

Q. The second truck take your surplus?

A. That is right.

Q. So a service that had one service in there a day would not be able to take care of your needs, is that right?

A. That is right.

Q. Now, what would be the effect on your company's business if the service of the Rock Island Motor Transit were eliminated or materially restricted?

A. I do not know. I don't know what.

Q. Do you know where you could replace the present service of the Rock Island Motor Transit out of Colfax?

A. I do not know anything that would take the place of it for our shipping.

Mr. Nolan: That is all. You may cross-examine.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Fowler:

Q. As I understand your statement any volume shipments is by truck by a carrier other than the Rock Island Motor Transit?

A. Inbound freight, that is right.

Q. And the reason you prefer that service over rail carrier service is the reason it is unloaded on your dock?

A. That is correct.

Q. And if it was a rail shipment it would have to be [fol. 1194] unloaded at the depot, you would have to go and get it, and bring it over to your business?

A. It would be a full carload and set on the siding, but we would have to go over and get it, that is right.

Q. Now, do you have truck service by the Rock Island Motor Transit on rail billing?

A. They take all of our rail shipments to Des Moines from our factory to Des Moines, and then it is shipped by rail car there.

Q. Then, irrespective of whether it is motor carrier billing or Rock Island Railroad billing, it is all picked up by the same truck?

A. That is right.

Q. And then with respect to the outbound shipping, is the same thing true?

A. The outgoing shipments, that is the outgoing shipments.

Q. On your inbound shipments do you receive rail billed shipments inbound that are handled by the Rock Island Motor Transit truck?

A. I don't know of any. We might.

Q. Then all of your outbound rail shipments are transported by truck to Des Moines?

A. That is correct.

Q. Irrespective of whether you send them rail billed or motor carrier?

A. That is right.

Q. Now, with respect to your outbound shipments, where [fol. 1195] one shipment exceeds two thousand pounds, how are you handling that at the present time?

A. Well, let's see. Isn't it five thousand pounds?

Q. I mean two thousand.

A. Over two thousand. As I recall we are allowed five thousand pounds on one billing by truck at the present time. We have no carton that will weigh two hundred pounds, that we can split up a shipment if we want to.

Q. The point I am making is this restriction hasn't bothered you any?

A. It has cost me a little more freight occasionally.

Q. That is all. Have you shopped around to see if you can get another carrier to take a shipment over five thousand pounds?

A. We have. We have tried that, yes.

Q. And have they handled that for you?

A. No. We didn't think that it was worth-while so far as we are concerned.

Q. The service is there available if you want it?

A. We have this one particular truck line we have given a little business to recently, and they might even be two days late in making a pick-up when they promised to come.

Q. Let's get right down to it, what are the motor carriers that serve Colfax?

A. A lot of trucks come through. Iowa-Nebraska, Knaus and Watson, and I believe a few other trucks.

[fol. 1196] Q. Have you used Watson's service.

A. I have never used Watson on any outgoing shipments.

Q. They do bring some inbound to you?

A. They have, yes.

Q. And how about the Iowa-Nebraska?

A. I have never used them outbound, either.

Q. Have they served you inbound?

A. I think they have in the last years.

Q. How about Knaus?

A. We have used them on some outgoing shipments.

Q. How about on inbound?

A. I don't believe we have got anything through them.

Q. The Knaus Truck Lines serve Kansas City, do they not, and Omaha?

A. We use them for Indiana points.

Q. And you are using them at the present time?

A. We have in the last two weeks.

Mr. Fowler: That is all.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Nolan:

Q. Yes. Mr. Loehr, in regard to your inbound truckload shipments of steel, do you know who carries that, who has brought that in?

A. I don't know.

Q. Are you familiar with the fact there are livestock [fol. 1197] haulers into the Chicago market who fill up their trucks with steel and rough merchandise and bring it back into the Iowa territory?

A. Yes, sir.

Q. Have you had any of that service from Chicago on steel?

A. I don't know for sure. I think we did once. It smelled like it.

Q. Now, is it one of the regular truck lines that bring in the steel in truckload quantities now from Chicago?

A. Usually it is, yes.

Q. But you don't know whether they handle that on their own trucks or it might be one of these pig haulers that brings it back?

A. I don't know.

Q. Which company was it that has been two or three days late in making pick-ups after they agreed to?

A. That was Knaus.

Q. At a specified time?

A. Yes.

Q. Knaus Truck Line.

A. They have been there the same day, and one day late, and never over two days' late.

Q. In other words, if you have got a truckload of freight going out with Knaus, you have to contact the Des Moine office, is that right?

A. We always do. They say they will stop by every day [fol. 1198] but they don't do it. We don't have shipments for them every day.

Q. You say that is primarily for Indiana points where you can get a through billing by Knaus?

A. Yes.

Q. Otherwise, the freight moves out by Rock Island Motor?

A. Yes.

Mr. Nolan: That is all.

Exam. Carpenter: Recross?

Mr. Fowler: No.

Exam. Carpenter: You are excused.

(Witness excused.)

RALPH SHELTON was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you state your name, place of residence, and occupation?

A. Ralph Shelton, Mason City, Iowa, Traffic Manager of the Chamber of Commerce.

Q. Does your Chamber of Commerce at Mason City have a Traffic Bureau department?

A. Yes.

Q. You are the Traffic Manager of that department. How long have you been in Mason City in your present position?

A. I have been in my present position since last fall but I have been there three years.

[fol. 1199] Q. And have you been engaged in the same type of work during that period of time?

A. That is right.

Q. Were you Assistant Traffic Manager before last fall?

A. Yes.

Q. Now, for the record, what is the size of Mason City and what industries it has there?

A. Mason City's population is 27,984 in the last census. We have numerous industries there, the larger industries the cement plant, State Brand Creameries, Deckers, those are the larger. There are a good many smaller industries.

Q. Those are manufacturing companies of various types, is that right?

A. That is right.

Q. And you have, I assume, the general line of wholesale distributing houses a city of that size would have?

A. Yes.

Q. Mr. Shelton, are you familiar in a general way with the subject of this hearing?

A. I believe so.

Q. Now, Mason City isn't located on U. S. Highway 6. As a matter of fact it is about one hundred thirty miles north?

A. It is on 65, one hundred thirty miles.

Q. One hundred thirty miles. Does the Rock Island Motor Transit provide a daily service in and out and [fol. 1200] through Mason City, Iowa?

A. They do.

Q. And that is on the Rock Island Motor Transit line between Minneapolis and St. Paul on the north and Des Moines and Kansas City on the south?

A. That is right.

Q. And are you familiar with the type of service provided by the Rock Island Motor Transit through, into, and out of Mason City?

A. Yes.

Q. And is that a daily service?

A. It is a daily service.

Q. Now, what particular interests do you, as a repre-

sentative of the shipping and jobbing interests of Mason City, have in this particular proceedings?

A. Well, we are interested in retaining the good service that we do have, and we are probably primarily affected on this on shipments from the Tri-Cities.

Q. Now, is there a flow of traffic between the Tri-Cities, consisting of Rock Island, Moline, Silvis, and East Moline, on the one hand, and Mason City, Iowa, on the other?

A. That is right.

Q. And is there a flow of traffic between those points?

A. Yes.

Q. What company has been handling that traffic in the past? Has the Rock Island Motor Transit been handling [fol. 1201] that traffic between the Tri-Cities and Mason City?

A. Yes.

Q. And that would be by the use of U. S. Highway No. 6 to Des Moines and north on Highway 65, is that correct?

A. Yes, sir.

Q. State whether or not the service which the Rock Island Motor Transit has been providing between the Tri-Cities, on the one hand, and Mason City, on the other, has been satisfactory, or otherwise?

A. It has been satisfactory.

Q. Is there a substantial flow of traffic between the Tri Cities and Mason City over the Rock Island Motor Transit line?

A. The majority of it is small shipments, I mean as far as our members are concerned, but it is a steady flow.

Q. Steady flow. What other transportation facilities do you have between the Tri-Cities and Mason City?

A. Watson.

Q. And is that a regular service, daily service?

A. Yes.

Q. What is the difference between the service of the Rock Island Motor Transit between the Tri-Cities and Mason City, and the service provided by Watson Bros.?

A. They are, the majority of our members are using the Rock Island Motor Transit.

Q. Do you know why they are doing that?

[fol. 1202] A. Service.

Q. Is the service provided by the Rock Island Motor Transit more regular?

A. Yes.

Q. And desirable than the Watson Bros.' service?

A. That is correct.

Q. Now, state whether or not the Rock Island Motor Transit has a terminal, terminal agent and pick-up and delivery service at Mason City.

A. They have a terminal there, agent and pick-up and delivery.

Q. And state whether or not they have facilities at the terminal for informing shippers of rate matters, classifications, and things of that character?

A. They do.

Q. I assume that Watson Bros. probably have a terminal there, do they not?

A. They have an agent there.

Q. They have a local cartage company as their agent?

A. Yes.

Q. They don't have a terminal of their own. Then they don't have an agent that would be available for rate information and things of that character?

A. No.

Q. State whether or not it would be to the interest of of the jobbing and shipping interests of Mason City, that [fol. 1203] the present service of the Rock Island Motor Transit, which has been used over the years that you are familiar with, be maintained.

A. It is of very definite interest to us.

Q. Now, do you have any concerns in Mason City that act as distributors for quantity shipments that come into Mason City and then are broken down and sent on to destination in smaller points around Mason City?

A. We have several grocer brokers, wholesale.

Q. And state whether or not to your knowledge they have say a carload shipment come in of merchandise, and part of it is for Mason City and part of it is destined to other points in that area?

A. I believe that is true.

Q. And would some of that merchandise reach as far south as Highway No. 6, or would that be?

A. I don't believe it would reach that far.

Q. Then, as I understand your testimony, you are appearing here to seek the keeping of the service that you have had between the Tri-Cities area and Mason City?

A. That is right.

Mr. Nolan: That is all.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Fowler:

Q. Mason City is located on the north and south main line of the Rock Island between the Twin Cities and Kansas [fol. 1204] City?

A. That is right.

Q. And is presently served by the Rock Island Railroad?

A. That is right.

Q. And by the Rock Island Motor Transit?

A. That is right.

Q. And by the M. & St. L. Railroad, and by the Chicago, Great Western Railroad?

A. That is right.

Q. And what other roads?

Mr. Nolan: The Milwaukee.

By Mr. Fowler:

Q. And the Chicago, Milwaukee and St. Paul?

A. Yes.

Q. Now, do any of the other railroads maintain affiliated truck service in connection with the railroad operations in and out of Mason City?

A. I believe the Milwaukee.

Q. And, so far as you know, the other railroads do not?

A. I know of no others.

Q. Now, with respect to the north and south operation, what are the names of the established motor carriers that are serving Mason City in interstate commerce?

A. North and south?

Q. Yes.

A. We have the Rock Island Motor Transit, the Des [fol. 1205] Moines Transportation—are you speaking of Des Moines?

Q. I am speaking of the north and south operation.

A. And then we have Bos.

Q. You have the Merchants Motor Freight?

A. To what point?

Q. They operate along the north and south highway through Mason City enroute from Des Moines to Minneapolis, do they not?

A. I wasn't aware of it.

Q. All right. How about Bruce Motor Freight?

A. Not to my knowledge.

Q. Well, there is the Des Moines Transportation——

A. And Bos and Rock Island Motor Transit.

Q. And Bos and Rock Island Motor Transit. You are not familiar with the fact that the Bruce Motor Freight have an operation through Mason City north and south daily?

A. No, I am not.

Q. You are not familiar with the fact that the Merchants Motor Freight have an operation through Mason City daily?

A. Daily, no, sir.

Q. And does the McCoy Truck Lines serve Mason City?

A. Yes.

Q. Now, with respect to the shipments you are speaking about, are you talking about shipments that originate at Moline, Rock Island and East Moline?

A. Yes.

[fol. 1206] Q. Or that might originate at Davenport, but by nature of the manner in which they are handled, they become interstate shipments, isn't that correct?

A. Yes, sir.

Q. You are aware of the fact, are you not, that the Merchants Motor Freight Company have authority to serve the Tri-City area, are you aware of that?

A. From Mason City?

Q. We will get to that later. Were you aware of the

fact they do have a terminal at the Tri-Cities and serve the Tri-City area, and the Merchants Motor Freight also serve Mason City, do they not?

A. I wasn't aware of it.

Q. Now, Bos has authority to conduct this operation?

A. Yes.

Q. So at the present time, is that the Bos Freight Lines or Bos Truck Lines?

A. Yes, sir.

Q. And at the present time the Bos Freight Lines could handle these shipments, could it not?

A. It could.

Mr. Fowler: That is all.

Redirect examination.

By Mr. Nolan:

Q. To your knowledge the Bos Freight Lines or Bos Truck Lines, I don't know which it is, Joe or Al, do either [fol. 1207] one of those companies have a terminal, agent and dock facilities at Mason City?

A. No.

Q. Do you have any knowledge of any regular daily service between the Tri-Cities and Mason City by Bos Truck Lines or Bos Freight Lines?

A. No.

Q. And how about Merchants, does the Merchants Motor Freight have a terminal agent, a dock and terminal facilities at Mason City?

A. Not to my knowledge.

Q. If they had one there would you probably know about it?

A. Well, I think that I would.

Q. Do you think they would inform you if they had those facilities?

A. Well, they might not.

Q. If they are looking for business, they would probably contact you?

A. If they were looking for business they would probably make the calls.

Q. You are not familiar with that service?
A. No.

Mr. Nolan: Oh, I think that is all.

Recross-examination.

By Mr. Fowler:

Q. Don't these motor carriers maintain some sort of a [fol. 1208] terminal facility in a town like Mason City?
A. They have an agent. They make their stops at a terminal such as Stubbs.
Q. They have a motor freight terminal there, don't they?
A. With Stubbs they do.
Q. Yes.
A. I misunderstood your question. They do dock down there at Stubbs.
Q. You are talking about the motor freight terminal Stubbs maintains?
A. Yes; Stubbs Freight Line.
Q. And that is where they unload the over-the-road trucks and pick up. How is the pick-up and delivery done in Mason City by the over-the-road carriers other than the Rock Island Motor Transit? Is that by a local cartage company?
A. Yes.
Q. And what is the name of that company?
A. Cadwell Storage.
Q. The Cadwell Transfer and Storage acts as a pick-up and delivery agent by these over-the-road carriers about which I have been talking. Does Cadwell have a freight dock there, too?
A. Yes.
Q. So these carriers use the facilities of Cadwell or the facilities of Stubbs?
A. That is right.
[fol. 1209] Q. The Rock Island Motor Transit has its freight dock at the Rock Island depot?
A. They have their own independent dock.
Q. They have a dock away from the depot?

A. Yes.

Q. What about the pick-up and delivery service they perform?

A. They have their own pick-up and delivery truck.

Q. And do they pick up Rock Island Motor Transit's freight as well as Rock Island Railroad freight?

A. They pick up the Rock Island Motor Transit only.

Q. They pick up only Rock Island Motor Transit freight?

A. To my knowledge.

Q. Who handles the railroad freight?

A. I can not answer that.

Q. Are you sure about what you said? I am not trying to quibble with you. Are you certain about what you have said?

Mr. Nolan: I am objecting to that. It is argumentative and trying to badger and browbeat the witness.

Exam. Carpenter: Objection sustained.

Mr. Fowler: I will ask you, Mr. Nolan, how is the pick-up? Now, Mr. Witness, I am satisfied the fact is the Rock Island Motor Transit Company do the pick-up and delivery work for the railroad in Mason City, as well as for the motor freight company, and the only reason I am saying that is I want to get it on the record is all.

[fol. 1210] Mr. Nolan: We will concede that is the fact.

Mr. Fowler: I am not trying to embarrass you at all with the question.

Exam. Carpenter: Give us something else.

Redirect examination.

By Mr. Nolan:

Q. Yes. By the way, Mr. Shelton, are you familiar with any of the so-called motor carriers operating between the Twin Cities, Des Moines, and on south to Kansas City, or north and south through Mason City, say from Omaha to the Twin Cities, whether or not that operation is an overhead operation between terminals rather than to local points such as Mason City?

A. Oh, it is pretty much a local operation, I believe.

Q. Well, the point I am trying to make, whether or not

there are carriers that operate from Des Moines to Minneapolis without stopping at Mason City, as an overhead operation. Are you familiar with any such operation as that, or have you noticed any trend toward that operation?

A. There is that trend.

Q. And are there carriers that operate over Highway 65 between the Twin Cities, Des Moines and Kansas City or St. Louis, or some other point, that do not stop at Mason City except for full loads? Are you familiar with that trend?

A. No.

Mr. Nolan: I believe that is all.

Recross examination.

[fol. 1211] By Mr. Fowler:

Q. All right, let's take a shipment from St. Louis moving to Mason City. How many carriers do you have that perform a daily service from St. Louis to Mason City?

A. Merchants.

Q. Are you talking about the Merchants Motor Freight, Inc.?

A. Mmmmhuh.

Q. All right. What is another one? How about Bruce Motor Freight, Inc.?

A. Yes, I think Bruce have one.

Q. Let's take Kansas City. How many carriers do you have that have a daily service from Kansas City to Mason City?

A. The Rock Island Motor Transit.

Q. How about the Merchants Motor Freight?

A. I believe so.

Q. How about the Bruce Motor Freight?

A. I don't know about Bruce.

Q. Now, from Minneapolis how many carriers do you have serving Mason City daily?

Mr. Nolan: That is objected to as not cross-examination and not within the scope of the direct examination.

Mr. Fowler: You are talking about a north and south operation.

Exam. Carpenter: I overrule the objection. You can go ahead. The direct was all over the country, Mr. Nolan.

Mr. Nolan: We started south of Mason City.

[fol. 1212] Mr. Fowler: I might say, off the record.

(Statement off the record.)

Exam. Carpenter: Will you read the last question, please?

(Question read.)

A. From Minneapolis we have Murphy, Des Moines Transportation, Rock Island Motor Freight.

By Mr. Fowler:

Q. The Des Moines Transportation Company, Inc., has an operation from Des Moines north to Minneapolis through Mason City?

A. Yes.

Q. And on shipments that are moving from the Tri-City area to Mason City, they could interline with any number of carriers at Des Moines, Iowa, could they not?

A. Yes.

Mr. Fowler: That is all.

Mr. Nolan: That is all.

Exam. Carpenter: That is all. You are excused.

(Witness excused.)

Maurice Turner was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you state your name, please, place of residence, and occupation?

A. Maurice Turner, Atlantic, Iowa, Parts Manager for the Linke Chevrolet.

[fol. 1213] Q. Linke Chevrolet, that is a Chevrolet Agency at Atlantic, Iowa, isn't that correct?

A. Yes.

Q. Now, you understand what is being considered here in this case?

A. Partially I think.

Q. And you are in charge of the inbound shipments, I assume, for the Chevrolet Agency there at Atlantic, Iowa?

A. Yes.

Q. And from what out of State points do you get such shipments?

A. Most of our shipments are from Chevrolet, either from Chicago or from Flint; some few from Janesville.

Q. Chicago, Illinois, Flint, Michigan, or Janesville, Wisconsin, is that right?

A. Yes.

Q. And how have those shipments moved into Atlantic the past year?

A. Of course, our Chicago always comes in Rock Island Motor Transit.

Q. Do you specify receiving it that way?

A. That is right. That is the only way Chevrolet ships, if possible.

Q. By Rock Island Motor Transit?

A. That is right, out of Chicago or Des Moines.

Q. How long have you been connected with the Chevrolet [fol. 1214] Agency in Atlantic, Iowa?

A. Six years.

Q. And how about shipments from Flint, Michigan, how have they been coming in?

A. If they are a rush order, which they generally are, they will come as far as Des Moines the quickest way, and out on the Rock Island Motor Transit.

Q. And how from Janesville, Wisconsin?

A. Well, I think they generally come rail to Des Moines. I am not sure whether they come to Des Moines or Chicago. That is generally a rush order, and if we need a motor assembly or something, we will call Des Moines and they will teletype Chicago or Flint, and that will come the quickest way.

Q. How does that come out to Atlantic?

A. The Rock Island Motor Transit.

Q. You don't know whether it comes out of Chicago or Des Moines?

A. Generally comes out of Des Moines.

Q. Do you specify the shipments, where you control the routing, via Rock Island Motor Transit?

A. I do. I don't have very much other than Chevrolet, but where I have anti-freeze, tires or chains, I do specify. It either comes out of Omaha or out of Des Moines.

Q. By Rock Island Motor Transit?

A. That is right.

Q. Why do you specify the Rock Island Motor Transit service?

[fol. 1215] A. Because they are the quickest service we have out there.

Q. Do you know of any other carrier that gives the same type of service with regard to regularity that the Rock Island Motor Transit does to Atlantic, Iowa, from both east and west interstate points?

A. Well, Watson goes through there every day. The Iowa-Nebraska, I don't know what it gives.

Q. Watson goes through there. Do they give a daily service on all sized shipments the Rock Island Motor Transit does to Atlantic?

A. They are supposed to. They have an organization. Personally they don't give as good a service, no.

Q. That is what we want to know.

A. That is to us.

Q. Is there any carrier operating through Atlantic that gives the same type of service that the Rock Island Motor Transit does?

Mr. Fowler: Objected to as repetition.

Mr. Nolan: So far as you know?

Mr. Fowler: Objected to as repetition.

Mr. Nolan: The question hasn't been asked before.

Mr. Fowler: I will bet a hundred dollars.

Exam. Carpenter: The objection overruled.

A. No.

By Mr. Nolan:

Q. Now, I will ask you what effect it would have on your [fol. 1216] company's business if the Rock Island Motor

Transit's service was terminated or substantially reduced in quality.

A. Well, it would tie up our shop, our body shop considerably. Now, we can call Des Moines for a part we don't stock, a top, for instance, or a door, and they will teletype it on in the same day to Chicago, which is our master warehouse. If it is early enough in the day, they will get it out and we will get it the next day. Some of our regular orders that have to come from Flint, come freight to Des Moines, but if we didn't have a daily service and had to come rail, it could easily be a week or ten days on just one part.

Q. Now, have you ever received the same type of service from Chicago by any other carrier than the Rock Island Motor Freight?

A. No, we don't receive anything from Chicago only Rock Island Motor Transit.

Q. Only Rock Island Motor Transit. What are the size of shipments you ordinarily receive from these out of State points?

A. The majority of the orders run as high as one hundred fifty to two hundred pounds, from there up to, Oh, I suppose they run up to two thousand, twenty-five hundred possibly.

Q. You say they run from——

A. Two hundred pounds with our small shipments, and large shipments, our Des Moines shipments run up to two thousand, twenty-five hundred pounds sometimes. The Chi- [fol. 1217] cago shipments generally run from six hundred to fourteen or fifteen hundred pounds.

Q. Do you have occasion to have shipments in excess of five thousand pounds?

A. No.

Mr. Nolan: You may cross-examine.

Mr. Fowler: No cross-examination.

(Witness excused.)

Mr. Nolan: Mr. Burns.

TOM BURNS was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you please state your name?
A. Tom Burns.
Q. I believe you live at Anita, Iowa?
A. Yes, sir.
Q. What is your business, Mr. Burns?
A. I am a partner in the Shaffer & Burns firm of John Deere farm dealers.
Q. Farm implements, John Deere dealers, is that right?
A. Yes.
Q. Do you handle a full line of John Deere farm equipment?
A. We try to.
Q. And, in addition to the John Deere line, do you handle wagon boxes, and things of that character?
A. Yes, sir, numerous items.
[fol. 1218] Q. Lime spreaders, manure spreaders, things of that character?
A. Yes, sir.
Q. From what source do you get your implements and other supplies?
A. Our implements, so far as our whole goods from John Deere, come mostly in carload lots, and we happen to be located, the carload comes to our town, we unload the carload and split up with other people, but all of our repairs and practically all of our buying is out of Omaha, the big percentage.
Q. Do you have any shipments coming from the Tri-City area?
A. Oh, yes, those are rail shipments coming in carload lots.
Q. I am talking about small shipments.
A. We do, yes, if it is a factory order on breakdowns we ordinarily suppose they don't have in Omaha, they will come from there also.
Q. Now, I understand so far as your John Deere parts

are concerned, or John Deere implements, they are transported to you direct in carloads and divided?

A. That is right.

Q. But you do occasionally have factory orders that come direct from the factory at Moline?

A. That is right.

Q. Now, what transportation service or agency do you use for those small shipments from the Tri-City area?

A. Practically all Rock Island Motor, I think, so far as [fol. 1219] we are concerned.

Q. Do you specify such method of transportation?

A. We have.

Q. Why have you?

A. That has been our best service, about our only fast service.

Q. And do you know of any other truck line operating through Anita that provides a daily service from the Tri-City area to Anita?

A. I believe not.

Q. Now, Anita is located on U. S. Highway No. 6?

A. That is right.

Q. And about half-way between Des Moines and Omaha?

A. Yes, sir.

Q. And how big a town is Anita?

A. One thousand, eleven hundred.

Q. And I assume Anita is just like any other town that size in Iowa, it has all of the retail service establishments?

A. Most of them.

Q. Do you have any factory or industry there?

A. No, we don't.

Q. How about your shipments out of Omaha in regard to parts or supplies?

A. Our shipments from John Deere and all of the other wholesale companies from which we buy farm supplies, different companies, come by Rock Island Motor. The only [fol. 1220] thing we get from Omaha that comes by any other company is a prepaid deal that is on our tires. They prepay the freight on them and they have their choice.

Q. How do they come out?

A. The Iowa-Nebraska.

Q. Do you specify your shipments from Omaha by the Rock Island Motor?

A. Yes, sir.

Q. Why do you do that?

A. We get the best service from there by far.

Q. Do you know of any company that provides a regular, daily service from Omaha than the Rock Island Motor Transit?

A. None daily.

Q. Does the five thousand pound limitation that the Rock Island Motor Transit is now working under have any effect on your business?

A. Not so much because our shipments are small enough orders, I think run up to several hundred pounds. However, we might get in two thousand pounds, but it is very apt to be in two or three different billings, two or three different companies, I mean, possibly on the same day.

Q. With what frequency do you get shipments in to Anita from the east or the west out of State points?

A. From Omaha during the Christmas season we have some each day. Sometimes more than one billing a day, and [fol. 1221] get into different rates and costs us a little extra freight, but any time from now on we are apt to have freight every day.

Q. State whether or not during the farm season you have many emergency shipments?

A. Every day, that is if they get there.

Q. You many times have to call Omaha?

A. In our busy season we do practically every day.

Q. What would be the effect on your company's business if the Rock Island Motor Transit was compelled to cease operating in and out of Anita?

A. Well, until there would be something of more service than I know of at the present time, it would probably cost us a lot in that we would have to make a trip to Omaha on most days.

Q. And that is what distance?

A. Seventy miles.

Mr. Nolan: That is all.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Fowler:

Q. As I understand it, the Iowa-Nebraska Transportation Company has a service to Anita from Omaha?

A. Yes, sir.

Q. But you say that you use the Rock Island Motor Transit exclusively in so far as you have any control?

A. We have, yes.

Q. Now, why is that, in what particular is their service superior to the Iowa-Nebraska?

[fol. 1222] A. Well, I won't tell you what time they get in there now. Back when I first knew the Iowa-Nebraska coming in, they were usually getting in there late in the day after we were closed. We like to get our freight in the morning, and we usually do. If we call in this morning for repairs, we are needing them badly or we wouldn't call it. We would have them tomorrow morning by 11:00 a. m.

Q. So you haven't used their service lately, the Iowa-Nebraska?

A. We never have on repairs.

Q. You don't know when they get in?

A. I don't know. They haul our tires, as I stated. Those are stock order shipments which we don't control, and come prepaid.

Q. Is Anita located on the rail line of the Rock Island Railroad?

A. Yes.

Q. And does the railroad have an agent at Anita?

A. Yes, sir.

Q. And do they have a Rock Island Transit agent also?

A. No, sir.

Q. Just the one agent. Is the dock of the Rock Island Motor Transit Company located at the railroad freight depot?

A. I don't know. They have a dock of their own except for the rail freight. There is a dock.

Q. How are the deliveries made? Are they made from the over-the-road truck at Anita?

[fol. 1223] A. What deliveries do you mean?

Q. Your repair parts.
A. They deliver to our door.
Q. Off the road truck?
A. Yes, sir.
Q. In other words the Rock Island doesn't maintain a pick-up and delivery service at Anita?
A. No, sir.
Q. Does the Rock Island Railroad maintain a pick-up and delivery service?
A. I don't believe they do. They have tried it, I think. We don't get enough rail freight, except in carload lots, that I know. They may have some man hired that does delivery.
Q. You do receive some rail shipments, I presume?
A. Yes, sir.
Q. How are those delivered?
A. We pick them up ourselves. We have our own pick-up truck.
Q. At the rail depot?
A. Yes, sir.

Mr. Fowler: That is all.
Mr. Nolan: That is all.

(Witness excused.)

Exam. Carpenter: Five minute recess.

(Short recess.)

Exam. Carpenter: All right, we will proceed.
[fol. 1224] Mr. Nolan: Mrs. Fesler.

Mrs. Dan Fesler recalled, testified further as follows:

Redirect examination.

By Mr. Nolan:

Q. You are the same Mrs. Dan Fester from Coralville, Iowa, who took the stand here this afternoon, is that right, for the purpose of the record?
A. Yes.

Q. Now, do you have any freight bills with you that show shipments that you received from Chicago by transportation companies other than the Rock Island Motor Transit, showing the time the shipment was delivered to those transportation companies, and when they were delivered to you at Coralville?

A. Yes.

Q. And will you refer to the shipments, the date they were delivered to the carrier in Chicago and the time, the date you received them.

A. All right. Do you want the name of the company?

Q. The name of the company.

A. The name of the candy company?

Q. The name of the shipper, the name of the carrier, the date the merchandise was delivered to the carrier at Chicago and the date you received it.

A. All right. We have from the D. L. Clark Company, and the carrier was the Iowa-Nebraska.

[fol. 1225] Q. Where is the D. L. Clark Company located?

A. It is in Pittsburgh, Pennsylvania, is where it originates.

Q. Yes. When and where was that shipment delivered to the Iowa-Nebraska Transportation Company?

A. Picked up on January 17th.

Q. Where?

A. Picked up in Davenport, I think. Wasn't those picked up in Davenport?

Q. I don't know. You are reading it.

A. No, they are picked up in Chicago. Picked up in Chicago.

By Exam. Carpenter:

Q. You said "January 17th". What year?

A. 1952.

By Mr. Nolan:

Q. That shows on a copy of the freight bill you received from the Iowa-Nebraska Transportation Company the date they were picked up in Chicago?

A. Yes, January 17th.

Q. 1952, and when did you receive that shipment?
A. On January 23d.
Q. At Coralville?
A. Yes, at Coralville.
Q. All right. What other freight bills do you have of other transportation companies, the time of delivery to that carrier, and the time you received it?
A. One from the Williamson Candy Company, picked up by the Des Moines Transportation Company.
[fol. 1226] Q. Where?
A. In Chicago.
Q. On what date, year?
A. On January 4, 1952.
Q. When did you receive the shipment at Coralville?
A. On January 9, 1952.
Q. All right, what other freight bills?

By Exam. Carpenter:

Q. Where is the Williamson Candy Company located?
A. At Chicago, Illinois. And then we had another one here. That was also the Williamson Candy Company, picked up by the Des Moines Transportation Company.

By Mr. Nolan:

Q. At Chicago?
A. Yes, at Chicago.
Q. On what date?
A. It was picked up on January 21, 1952, and was delivered to us on January 25, 1952.
Q. And what were the size of those shipments, Mrs. Fesler, starting with the first one and going through to the third?
A. One hundred seventy-five pounds, one hundred five, and one hundred fifty-two respectively.

Mr. Nolan: And in connection with the testimony of this witness the applicant tenders to counsel for examination the freight bills referred to by the witness.

Mr. Fowler: We will waive the examination. Read the [fol. 1227] revenue off of those three freight bills the carrier got.

Exam. Carpenter: In the same order she read.

A. The revenue?

Exam. Carpenter: Yes, what did you pay?

By Mr. Fowler:

Q. What were the transportation charges?
A. $3.19. They were prepaid.

Mr. Fowler: I understand.

A. All right, O. K. $2.02 prepaid and $2.06 prepaid.

Recross-examination.

By Mr. Fowler:

Q. Now, as I understand it, those shipments you are referring to now were delivered to you actually by the Maher Transfer Company?

A. Yes.

Q. And I forgot to ask you while on the witness stand, are the deliveries made to you by the over-the-road truck or are the deliveries made to you by the pick-up and delivery service of the Rock Island Motor Transit?

A. The Rock Island Motor Transit are brought from the pick-up trucks.

Q. They are not brought from the over-the-road trucks at Coralville. In other words, the pick-up and delivery is done from the Iowa City terminal?

A. Yes.

Redirect examination.

By Mr. Nolan:

Q. By the way, do those freight bills indicate when the [fol. 1228] Maher Transfer in Iowa City received the shipments?

A. Yes.

Q. Which one is first?

A. This one.

Q. Taking the one you referred to first, the shipment

over the line of the Iowa-Nebraska Transportation Company, which shows the shipment originated in Chicago on the 17th day of January, 1952, when was that shipment, according to this freight bill, received at Iowa City by the Maher Transfer Company?

A. January 19, 1952.

Q. And then delivered to you on January 23, 1952?

A. Yes.

Q. Which is the next freight bill? Now, the second freight bill showing a shipment handled by the Des Moines Transportation Company, received by that company in Chicago on January 4, 1952, and that indicates the date the Maher Transfer Company received it at Iowa City?

A. January 7, 1952.

Q. And then delivered to your place of business on what date?

A. January 9th.

Q. And on the third freight bill, does that show the date the shipment was received by the Maher Transfer at Iowa City?

A. It was picked up on January 21st, and Maher received it on January 25th.

Q. You received it the same day?

[fol. 1229] A. Yes, they delivered that one on the same day.

Q. And it originated in Chicago on the 21st of January?

A. Yes.

Mr. Nolan: All right. That is all.

Mr. Fowler: Wait a minute.

Recross-examination.

By Mr. Fowler:

Q. Is this the type of shipment you were talking about in your testimony?

A. Yes. That is just a small portion.

Q. I understand.

A. Incidentally, on those shipments I have asked them to route Rock Island Motor Transit, but they don't give me the reason for not shipping that way.

Q. The shipment from the Williamson Candy Company on the Des Moines Transportation Pro A-241529 consisted of five cartons of O'Henry candy, total weight one hundred five pounds, is that correct?

A. Yes.

Q. Now, that was picked up at the Williamson Candy Company in Chicago by the Des Moines Transportation Company, and was taken to Iowa City where it was delivered to their local cartage agent?

A. Yes.

Q. And then the local cartage agent brought that out to Coralville, Iowa, three miles distant from Iowa City?

A. Yes.

[fol. 1230] Q. The total transportation receipts on that shipment was $2.02?

A. Yes.

Q. Is that the type of shipment the Rock Island Motor Transit is handling for you?

A. Yes.

Mr. Fowler: That is all.

Mr. Nolan: That is all. Thank you.

Exam. Carpenter: You may be excused.

(Witness excused.)

Mr. Nolan: Mr. Delaney, please.

Edward J. Delaney was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Mr. Delaney, your name is Edward J. Delaney?

A. Yes, sir.

Q. You live at Stuart, Iowa, Mr. Delaney?

A. Yes, sir.

Q. And what business are you in?

A. Hardware, appliance, plumbing and heating.

Q. And how long have you been so engaged?

A. I have been in business there for twenty years.

Q. Do you handle the usual line of hardware and plumbing supplies, heating supplies, as the retail stores?

A. Yes.

Q. What is the size?

[fol. 1231] A. We have a solid sixteen hundred good eggs and a few stinkers, approximately sixteen hundred.

Q. And Stuart is approximately forty-five or fifty miles west of Des Moines?

A. About forty.

Q. And that is on Highway 6?

A. Highway 6.

Q. And also on the main line of the Rock Island?

A. That is right.

Q. For the record will you tell us what source you use for supplies, for merchandise from out of State points?

A. On our interstate shipments from Chicago, Kansas City, Omaha, Rockford, Winona, and the Twin Cities, we use the Rock Island Motor service.

Q. And do you use that service exclusively?

A. Not exclusively. Occasionally we will get a shipment by other carriers.

Q. And is that at your request, or the shippers direction?

A. Usually the shippers direction.

Q. Do you specify how your shipments shall come whenever you have an opportunity?

A. Whenever I can.

Q. And what carrier do you specify?

A. We use the Rock Island Motor Transit when it is available, that is on intrastate shipments. On our local Des Moines shipments, we have a local carrier, Wagner Motor Freight.

[fol. 1232] Q. And he has the local operation serving between Menlo and Des Moines, is that right?

A. That is right.

Q. Including Stuart?

A. Menlo, Stuart and Dexter.

Q. How about your Omaha shipments, do you get any merchandise from Omaha?

A. Yes, we get quite a little merchandise from Omaha. Usually we ship Rock Island Motor. Occasionally we will ship by some other carrier.

Q. Now, state whether or not the service of the Rock Island Motor Transit in interstate commerce is regular and daily through Stuart?

A. Yes, sir, it is, and it has been very satisfactory.

Q. Is there any other carrier you know of that supplies and provides a daily truck service in interstate commerce in and through the town of Stuart, Iowa?

A. I don't know what the other companies' schedules are. There are a number of companies that operate through there and into Stuart. I don't know their schedules. I have never been solicited by them, and I have never been, seen their schedules.

Q. Now, you say you have received some shipments from other carriers. What has been the character of the service of those other carriers on those shipments as compared to the Rock Island Motor Transit?

[fol. 1233] A. Sometimes the service was O. K. Recently I had an experience. I believe it was in February. I called Sioux City for several rolls of inlaid linoleum, which weren't available in Des Moines. They had them in Sioux City, and I asked them if they could be shipped that day. The people were moving in several days occupation, and wanted this work done. It was routed from Sioux City to Omaha via Watson, and Omaha to Stuart by Iowa-Nebraska. We received this linoleum two days later, which wasn't bad service, but one of the rolls of linoleum was badly damaged.

Q. What have you found with regard to claims with other carriers as compared with the Rock Island Motor Transit?

A. The Rock Island Motor have always been very prompt and very fair in their settlements. This happens to be the second or third damage I have had from the Iowa-Nebraska. I have never yet had a claim settled with them. On this particular linoleum delivery, I wasn't going to accept it, but one roll was the one we had a large order sold from, and we had to have it that day, so I accepted the shipment, paid the freight on it, and the driver promised he would either send the adjuster out to adjust the claim or he would see I receive forms for doing that. That has been over a month ago, and today I haven't received anything or had any one call on me about it.

Q. You say you have other unsettled claims with the Iowa-Nebraska?

[fol. 1234] A. Yes.

Q. And over what period of time?

A. One claim has been dating back as much as three years. They dropped a stove for us, a high priced range, and marked the bill "damaged". We paid them and didn't do anything more about it. I didn't take it up with the Interstate Commerce Commission, and thought if that is the way they are going to do business.

Q. Do you avoid doing business with the Iowa-Nebraska on account of that?

A. Yes, sir, every time I get a chance I avoid it.

Q. Mr. Delaney, maybe I asked you this, but I will ask you again, if there are any transportation companies that provide a daily motor transportation service into Stuart except the Rock Island Motor Transit?

A. The Wagner Motor Freight out of Des Moines provides a local service.

Q. That is solely an intrastate?

A. Intrastate. I see trucks going through and I see trucks in town. I don't know what lines are franchised to operate on a scheduled basis.

Q. You said you have never been solicited?

A. I have never been solicited.

Q. And never been given a schedule of the companies?

A. No, sir.

Q. Do you know whether the Wagner Motor Freight has [fol. 1235] through rates with other carriers?

A. They have through rates. We ship some interstate through them.

Q. They pick up at Des Moines and bring on out?

A. Yes, sir.

Q. Now, what would be the effect on your business at Stuart in the event that the Rock Island Motor Transit should be required to terminate its operations or substantially curtail?

A. We would probably still continue in business, but it would definitely be a hardship for us because we are used to the prompt service they render.

Q. Have you been using the Rock Island Motor Transit since that company has been in business?

A. Yes, sir.

Q. Now, in regard to the size of shipments, do you have any shipments that exceed five thousand pounds?

A. We haven't had for some time. We have received carloads by rail. Some of our shipments will run over a ton at a time. Very few over five thousand pounds.

Mr. Nolan: I believe that is all, Mr. Delaney.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Fowler:

Q. Deliveries to your store are made by the Rock Island Motor Transit from the over-the-road truck?

A. No, sir, they are made by a local truck from the Rock [fol. 1236] Island depot or terminal.

Q. In other words, the Rock Island maintains a pick-up and delivery service there?

A. Yes, sir.

Q. And does he handle your rail freight as well as your motor freight?

A. Yes, sir.

Q. And where is the terminal of the Rock Island Motor Freight located with respect to the freight dock of the Rock Island Railroad?

A. They use the same terminal.

Q. And does the Rock Island Motor Transit have an agent there as well as the railroad company?

A. They don't have a local agent there. We are contacted possibly several times a month by their representative in that territory. I believe he lives in Atlantic.

Q. If you wanted to discuss anything locally, you would do it with the Rock Island Railroad agent?

A. Yes, sir. I understand he is authorized to.

Q. Speak for both, is that your understanding of it?

A. Yes, sir.

Mr. Fowler: That is all.

Mr. Nolan: That is all. Thank you, Mr. Delaney.

(Witness excused.)

Mr. Nolan: Mr. Mark.

[fol. 1237] Howard Mark was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Your name is Howard Mark?
A. Yes, sir.
Q. Where do you live, Mr. Mark?
A. Casey, Iowa.
Q. And what is your business?
A. Hardware and plumbing.
Q. Oh, Mark's Hardware. Do you handle the general line of hardware?
A. Yes, sir.
Q. And how about any other?
A. Hardware and appliances, and some plumbing supplies.
Q. Any heating equipment?
A. Well, just oil heaters.
Q. Now, do you have any shipments come in from out of the State?
A. Some, yes.
Q. Where are those shipments?
A. Well, we have had one or two from Minneapolis, and a few from Omaha.
Q. Anything from the Tri-City area or Chicago?
A. Not that I recall.
Q. How long have you been in business there, Mr. Mark?
A. Just over a year. I think it was the 15th of December, 1950.
[fol. 1238] Q. And since you have been in business have you used the service of the Rock Island Motor Transit?
A. Yes, almost exclusively.
Q. And do you direct your own routing when it is possible?

A. Yes. When we first came there our predecessor suggested that the Rock Island Motor Transit would give us the best service, and we have used them almost exclusively on everything from the east.

Q. How about from the west?

A. Well, it is usually the Iowa-Nebraska from Omaha.

Q. Is that by your request, or does the shipper route it?

A. The shipper routes it.

Q. What is the quality of service of the Iowa-Nebraska as compared with the Rock Island Motor Transit?

A. Well, really I haven't figured the time it has taken any shipment. It hasn't been anything we have been pressed for we have gotten from them.

Q. Do you know anything about whether the Iowa-Nebraska provides a daily service into Casey, or is it twice a week service?

A. I can not tell you definitely, but to the best of my knowledge it isn't a daily service. I wouldn't say.

Q. How about the service of the Rock Island Motor Transit?

A. That is daily, five days a week.

Q. Now, do you know of any transportation agency, other than the Rock Island Motor Transit, that provides a daily motor truck service in and out of Casey?

[fol. 1239] A. Frankly I don't, but I am not acquainted with any other companies, nor their schedules.

Q. Did you know there are a large number of trucking companies that go through Casey?

A. Yes.

Q. But do you know whether any of those companies provide a daily service for any sized shipment in and out of Casey?

A. Not that I know of. Just the Rock Island, Iowa-Nebraska is all we have had any dealings with.

Q. What would be the effect on your business if the Rock Island Motor Transit were required to terminate its operations through Casey or substantially curtail?

A. It would be inconvenient for us in this way. We would have to go to the depot and pick up our freight, whereas it is delivered to our door, and even what freight comes by rail is picked up and delivered to us.

Q. By the Transit Company?
A. Yes, sir.

Mr. Nolan: That is all. You may cross-examine.
Mr. Fowler: No cross.
Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Nolan: Mr. Elder.

[fol. 1240] WALDO ELDER was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you give us your name, please?
A. Waldo Elder.
Q. Where do you live, Mr. Elder?
A. Atalissa.

By Mr. Bradshaw:

Q. Where?
A. Atalissa.

By Mr. Nolan:

Q. How do you spell Atalissa today?
A. A-t-a-l-i-s-s-a.
Q. What is your business?
A. I run a lumber yard.
Q. And you appeared at the other hearing?
A. That is right.
Q. And what is the fact as to whether you have more than one yard?
A. Yes, I have two yards. I have one at Wilton Junction, too.
Q. You have one at Atalissa and one at Wilton Junction?
A. One is the Elder Lumber Company and one is the Economy Lumber Company.

Q. And those are owned and operated by you?

A. Yes.

Q. Those are not line yards?

A. No.

Q. Now, in addition to handling lumber do you handle [fol. 1241] the usual building supplies and hardware, and the usual farm supplies such as gates, fencing and things of that character?

A. Yes.

Q. How long have you been in business at Atalissa, Mr. Elder?

A. Five years.

And are you active in the management at both yards?

A. No, I have a manager at Atalissa.

Q. But you supervise the buying and freight moving in and out of both places, is that right?

A. Yes.

Q. Now, Atalissa and Wilton Junction are both stations on the main line of the Rock Island Railroad, are they not?

A. Yes.

Q. And those towns are located between Iowa City and Davenport, Iowa?

A. Yes.

Q. Now, what commodities do you have shipped in from out of State points in less than carload quantities?

A. Oh; steel items, doors, overhead doors, building supplies.

Q. How about hardware?

A. Hardware, yes, hardware.

Q. And from what points do you get those supplies?

A. Most of the stuff clears through the Tri-Cities and from some points in Illinois, and Chicago.

Q. And with what frequency do you get shipments into [fol. 1242] your yards at Atalissa and Wilton Junction from out of State points?

A. In the busy season lots of times every day. On the general run maybe three or four times a week.

Q. And those shipments, I assume, range from minimum shipments up to several hundred pounds?

A. That is right.

Q. Or several thousand pounds, is that right?

A. Yes.

Q. Do you have occasion to have shipments in excess of five thousand pounds come in at any time?

A. That would be truckloads. We have a lot of truckload deliveries coming.

Q. That would be wire and roofing material?

A. That is right.

Q. And those supplies come out of the Chicago area, do they not?

A. Roofing from St. Louis and wire from Chicago.

Q. Now, I ask you, how do those truckload shipments come in?

A. The wire is most generally always fellows that take livestock in and come back.

Q. Some pig hauler takes a load of livestock into Chicago and comes back?

A. Wire is that way.

Q. And how about your roofing?

A. I can't think of the name but they have regular trucks for that.

[fol. 1243] Q. Out of St. Louis?

A. Out of St. Louis.

Q. Now, what company has provided your local motor carrier service to your yards at Atalissa and Wilton Junction?

A. The Rock Island Motor Transit.

Q. And has that been almost exclusive?

A. It has been exclusive.

Q. Has that been at your request, or the only service available?

A. So far as I know the only service available.

Q. Now, Wilton Junction is located immediately on U. S. Highway No. 6?

A. Yes, sir.

Q. And Atalissa?

A. Right next to it.

Q. It is on the highway, too?

A. Right on it, yes.

Q. Now, do you know of any other motor carrier that provides a daily service into Wilton Junction and Atalissa other than the Rock Island Motor Transit?

A. I have never seen another carrier in there.

Q. What would be the effect on your business at these two points if the Rock Island Motor Transit terminated its operations or was required to substantially reduce its service?

A. It would work a hardship. The people want the service, and the experience has been over the freight lines [fol. 1244] which it would come in on, a week, two weeks, three weeks.

Q. In other words you know of no facility that would take the place of the Rock Island Motor Transit?

A. I know of none.

Mr. Nolan: You may cross-examine.

Cross-examination.

By Mr. Fowler:

Q. Where is Atalissa with respect to Davenport?

A. Davenport, it is forty miles west.

Q. Where is Wilton Junction with respect to Davenport?

A. It would be thirty miles, thirty-five miles west.

Q. Does the Rock Island Railroad maintain an agent at Atalissa?

A. Yes.

Q. And also at Wilton Junction?

A. Yes.

Q. And does the Rock Island Motor Transit maintain agents at those places?

A. No.

Q. So the one agent, the Rock Island Railroad agent handles the thing for both of them?

A. So far as I am concerned I never handle anything through the Rock Island agent.

Q. How about railroad shipments?

A. Yes, we have rail shipments.

Q. Of less carload weights is delivered to you by the [fol. 1245] Rock Island Motor Transit?

A. Yes.

Q. So far as your delivery there in town is concerned, the delivery is off of the highway truck, isn't it?

A. Yes.

Q. You don't have a separate pick-up and delivery service?

A. No.

Q. And that is true with respect to both rail and motor carrier shipments?

A. Yes.

Q. Although the rail shipments do come in by truck?

A. Yes.

Q. And, as I understand your situation, your large volume quantities of roofing, steel and similar items are either shipped to you in rail carload lots or in carload lots by trucks other than the Rock Island Motor Transit?

A. Yes.

Q. And you use the services of the Rock Island Motor Transit on your small drop shipments?

A. Yes.

Mr. Fowler: That is all.

Exam. Carpenter: Redirect.

Mr. Nolan: That is all. Thank you.

(Witness excused.)

Mr. Nolan: Mr. Moeller.

[fol. 1246] HERBERT MOELLER, was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. State your name, place of residence and occupation, please.

A. Herbert Moeller.

Q. And you live at Wilton Junction?

A. Wilton Junction.

Q. And what is your business?

A. Western Auto appliances and television.

Q. You are the appliance dealer of the Western Auto, and that is owned by you?

A. Associate.

Q. You are the appliance dealer?

A. I am.

Q. What appliances do you have shipped in from out of State points?

A. Well, there is factory shipments. Some of the merchandise is ordered for factory shipment. It may come from the central point here. All factory shipments would come from wherever the factory is. Trailers and stuff like that I get them from the warehouse in Kansas City. Some storage batteries order is factory again, and would come out of Chicago.

Q. You are a branch or associate dealer of the Western Auto Stores. Where is the warehouse of the Western Auto [fol. 1247] Supply Company.

A. Dubuque, our Division or Zone, Dubuque.

Q. But you get factory shipments direct from the factory to your place of business, is that correct?

A. Yes.

Q. Get those from different out of State points?

A. Yes.

Q. How about your appliances, are those gotten at different places?

A. Most of the television comes out of the Tri-Cities. I get them myself.

Q. You buy direct from the dealer in the Tri-Cities?

A. Yes, the Hawkeye, as well as here in Des Moines you had the Emerson, and I believe they were shipped through on the Rock Island straight through truck, I am pretty sure.

Q. You are under a dealer here in Des Moines?

A. Distributor.

Q. Distributor here in Des Moines, but they ship the units themselves?

A. By a different truck, by the Rock Island Motor.

Q. They have a distributor here in Iowa of the Emerson Television Company?

A. They did last fall, yes.

Q. But the shipment may come direct to you from the factory?

A. It could be, but the distributor here does ship direct, [fol. 1248] or did. We don't buy from there no more now. I wouldn't know.

Q. What I am trying to get at, Mr. Moeller, what shipments do you have from out of State points, and what are the points you receive these shipments from?

A. Like storage batteries?

Q. Where do they come from?

A. They are made in Chicago.

Q. All right.

A. It is a factory shipment. Well, I wouldn't know.

Q. What do you get from Kansas City?

A. Well, things that are listed under central warehouse I would imagine in the store. I own the store. I could not answer a lot of those questions exactly. I know we have shipments from the central warehouse, which is at Kansas City, and we do have factory shipments on factory orders.

Q. You say the central warehouse. That is the central warehouse of the Western Auto Supply Company?

A. That is the home office.

Q. And you have shipments coming from there of different auto supplies?

A. Yes.

Q. Now, what company has been handling your shipments into Wilton Junction, what transportation agency?

A. Rock Island Motor.

Q. Rock Island Motor. Do you know of any other com- [fol. 1249] pany that provides a daily service in and out of Wilton Junction?

A. There is none.

Q. And would your testimony be substantially the same as Mr. Elder as to the fact that the Rock Island Motor Transit Company is the only company that provides that service?

A. That is right.

Q. And what effect would it have upon your business if the service of the Rock Island Motor Transit Company was eliminated or substantially curtailed?

A. It would probably force me to take my truck and go to Davenport and pick it up at the H & W docks.

Q. You are how far from Davenport?

A. About thirty miles.

Q. Do you have any shipments in excess of five thousand pounds?

A. No.

Mr. Nolan: Cross-examine.

Cross-examination.

By Mr. Fowler:

Q. Where you talk about the H & W docks, you are talking about your shipments from Dubuque?

A. Yes, that comes H & W and Rock Island.

Mr. Fowler: No cross.

Mr. Nolan: Just a minute.

Redirect examination.

By Mr. Nolan:

Q. How would you get shipments out of Chicago or Kansas City?

[fol. 1250] A. Whatever way the Western Auto specifies.

Q. I see. If the Rock Island Motor Transit didn't operate into Wilton Junction, do you have any idea how you would get a shipment from Chicago or Kansas City?

A. They would have to figure that out. I wouldn't know.

Mr. Nolan: That is all.

Mr. Fowler: Just a minute. If you are going to keep this up, we will keep this up.

Recross-examination.

By Mr. Fowler:

Q. Let's take Chicago. You get storage batteries out of Chicago in what quantity?

A. Those are the big tractor, not too many.

Q. What would they weigh, two hundred pounds a shipment?

A. Somewhere in there.

Q. What else do you get out of Chicago?

A. I can't, that is hard to tell. Wherever there is some special order. Most of that stuff is factory order.

Q. Mr. Moeller, let's try to keep this on some kind of a definite basis. You get storage batteries out of Chicago?

A. That is right.

Q. What other commodities do you get out of Chicago specifically?

A. Well, I don't know.

Q. All right. All right. Do you use rail service?

A. No.

Q. To Wilton Junction?

[fol. 1251] A. No.

Q. Do you have any local rail service into Wilton Junction?

A. Well, the Rock Island Railroad runs through Wilton Junction, but there is no way of having storedoor delivery.

Q. But you do get some rail shipments, do you not?

A. I don't remember the last one we have had.

Q. You haven't had any occasion to use a railroad shipment for some time, is that right?

A. That is right.

Q. Now, does the Rock Island Railroad maintain an agent at Wilton Junction?

A. I believe there is somebody took his job there, he just retired at fifty.

Q. The answer is there is?

A. I believe. I don't know.

Q. How are your shipments delivered to you by the Rock Island Motor Transit? Are they delivered at your store from the over-the-road truck?

A. What do you mean by "over-the-road?"

Q. The truck in which they are hauled from Chicago.

A. I think the over-the-road truck brings the Chicago shipments, while the rest of the merchandise comes through Davenport and the H & W Companies through pick-up truck, whatever you call it.

Q. Then, to the best of your knowledge these batteries that you get out of Chicago are delivered to your store [fol. 1252] in Wilton Junction by the same truck that hauls them from Chicago to Wilton Junction?

A. So far as I know.

Q. All right.

A. I have a manager running the store. I am there most of the time. He takes care of the business. I have seen

both trucks there, the little truck and the big one there at the same time.

Q. Do you run this store?

A. I own the store.

Q. Do you stay there and run it?

A. I have a manager.

Q. Kansas City, what do you get from Kansas City? Does that come by rail or by truck?

A. That comes by truck.

Q. Does that come on rail billing or truck billing?

A. I don't know.

Q. And is it delivered to your place of business by the Rock Island Motor Transit truck?

A. The Rock Island Motor Transit truck.

Q. Now, from what other point outside—those shipments, I suppose, are small shipments under five hundred pounds?

A. Yes.

Q. All right. From what other point outside of the State do you get any shipments of any consequence?

A. Well, that would be wherever that is shipped from the manufacturer.

[fol. 1253] Q. Name the point and the specific commodity, please.

A. That I can not answer. The manager takes care of that.

Q. You are not familiar with that?

A. I am not familiar with that. All I am interested in, to see we have service.

Exam. Carpenter: You are excused.

(Witness excused.)

Ivan Gorsuch was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Give us your name, place of residence, and occupation.

A. Ivan Gorsuch, Wilton Junction, Iowa. Plumbing and heating. I am an employer.

Q. You are in the retail plumbing and heating?

A. That is right.

Q. What out of State points do you get shipments from?

A. The only one we buy from is the May Company in Moline.

Q. And by what means do they move to Wilton Junction?

A. The Rock Island Motor Transit.

Q. Do you so specify?

A. Not always. We say "the best way".

Q. Do you know of any other carrier that provides the service from Rock Island, Illinois, to Wilton Junction?

[fol. 1254] A. Moline I mean, excuse me, Moline. Not to my knowledge.

Q. Do you know of any other company that gives a regular daily service to Wilton Junction than the Rock Island Motor Transit?

A. No, I don't.

Q. What would be the effect on your company if the service of the Rock Island Motor Transit were terminated or materially curtailed? Would your business be ruined there?

A. It certainly would. It would probably cost us the time of one man two days and a truck tied up for two days, going in and getting supplies twice a week.

Q. Now, what would be the ordinary sized shipment you receive from Moline?

A. Oh, from one hundred fifty pounds to eight hundred.

Q. Now, in your plumbing and heating business do you handle bathroom fixtures like tubs, lavatories and stools, and things of that character?

A. That is right.

Q. And pipes and things of that nature? What about the heating business? Do you handle furnaces?

A. Complete.

Q. Gas burning, oil burning?

A. Every type but gas furnaces.

Q. Do you handle stokers?

A. That is right.

Q. With what frequency do you get shipments in from Moline?

[fol. 1255] A. Oh, on an average, say the Tri-Cities, twice a week I will say like Davenport, and Moline, and Rock Island.

Q. And you say you buy from the May Company, which is a wholesale plumbing and heating supply company at Moline, Illinois, is that right?

A. Yes, sir.

Mr. Nolan: That is all.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Fowler:

Q. What other carriers serve Wilton Junction?

A. None that I know of.

Q. And how frequently do you send your own truck into Moline to get this freight?

A. At the present time, none at all unless it is just an emergency.

Mr. Fowler: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Nolan: Mr. Murray.

JOHN MURRAY was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Give us your name, place of residence, and occupation, Mr. Murray.

A. John Murray, Ottumwa, Iowa, Chamber of Commerce.

[fol. 1256] Q. What is your position with the Chamber of Commerce?

A. I have the title of Traffic Manager.

Q. Do you have a separate department of your Chamber of Commerce devoted to traffic, or is that merely one of the departments set up among the members?

A. It is a separate function from the managing of the Chamber of Commerce, if that is what you mean.

Q. That is what I am getting at.

A. It is a separate department.

Q. And it is sustained by separate memberships in the traffic department?

A. No, they are general memberships to the Chamber.

Q. Do they pay additional dues for the services they get over and above the regular members?

A. No, they do not.

Q. Now, how many members do you have in your Traffic Bureau or Traffic Department?

A. That is just myself.

Q. Members of your Traffic Department?

A. We have roughly seven hundred members to the Chamber of Commerce, all of which at some time or other participate in the service.

Q. And how long have you been engaged as Traffic Manager of the Chamber of Commerce?

A. Only six months.

[fol. 1257] Q. How long have you lived at Ottumwa?

A. I was a native of Ottumwa. I have been working in traffic enterprises on the Pacific Coast for five or six years. I have just returned to Ottumwa.

Q. You have had traffic experience before returning to Ottumwa?

A. Five or six years.

Q. Can you tell us the principal industries located in Ottumwa?

A. John Morrell, meat packing plant, and John Deere has a large factory there, large machine shops, Johnston Lawn Mower Company, a large warehouse, J. W. Edgerly & Company, drug materials, and the usual run of retail establishments.

Q. What is the population of Ottumwa?

A. 30,500 roughly.

Q. Ottumwa is considered quite an industrial city, is it not?

A. For the population, yes, sir.

Q. Now, you understand, do you not, the nature of the service under consideration in this case?

A. I believe I do.

Q. And what interest does the service involved in this proceeding have to you as traffic representative of the shipping and receiving interests of Ottumwa?

A. Well, the service has been there for a number of years, and most of the people are satisfied with the service, and would like to continue using the Rock Island Trucking Company.

Q. To what particular area would the Ottumwa in-
[fol. 1258] terests be affected if this particular segment of the Rock Island Motor Transit Company was terminated?

A. Well, Omaha would be a good example. We have quite a few shipments going westbound to Omaha; also the Quad-Cities.

Q. You have other trucking companies that operate between Ottumwa and Omaha, do you not?

A. We do.

Q. Ottumwa and the Tri-Cities. Why do you say the Rock Island Motor Transit's service would affect the shipping interests of Ottumwa, then, when you have those other agencies?

A. One of the carriers I am familiar with has irregular service you might say. I think he comes in three times weekly.

Q. That is from Omaha?

A. From Omaha, yes. The other carrier that gives service between there, I have many complaints on their pick-ups. They have very poor service in picking up freight.

Q. At Ottumwa?

A. At Ottumwa. The claim policy of one of those companies is not too good.

Q. Now, Mr. Murray, state whether or not there are national concerns, or large concerns, which have warehouses at Ottumwa where merchandise is brought in there and distributed to other points in Iowa, among which points would be along U. S. Highway 6 between Davenport and Omaha.

A. Well, working in the reverse direction from Omaha

[fol. 1259] to Ottumwa, there is a considerable movement of tires and automobile parts for one of our large automotive distributors down there.

Q. Aren't some of those tires destined to points other than Ottumwa?

A. They come to Ottumwa and then are distributed throughout northern Missouri and this part of southern Iowa.

Q. And would that include points along U. S. Highway No. 6?

A. I don't believe their scope of operation would extend that far.

Q. Well, now, you have acquainted yourself, have you not, with the fact that the Rock Island Motor Transit Company has been providing a service to Ottumwa and the shipping interests of Ottumwa for a good many years?

A. I have.

Q. And, as I understand your position here is, you are asking to maintain the service the Rock Island Motor Transit Company has been providing the shipping interests of your city?

A. That is correct.

Q. Now, what is the fact as to whether or not the Rock Island Motor Transit Company has a terminal, terminal agent, and a pick-up and delivery service in Ottumwa?

A. They have all of those.

Q. And state whether or not the Rock Island Motor Transit Company has the facilities for giving rate information, rate classifications, and tracing shipments in Ottumwa.

[fol. 1260] A. They have a tariff man who is very efficient, and they have a very thorough tariff file.

Q. Now, Mr. Murray, from your experience in the traffic work, state whether or not where there is a substantial amount of outbound shipments if it is reasonably necessary that the transportation agency maintain a terminal, terminal agent, and traffic facilities for rates, tracing shipments, and filing claims.

A. I feel that such a service is necessary to the public as a part of the transportation service. I may have misunderstood your question.

Q. What I am getting at, where there is a large number of shipments, and a large volume of outbound shipments in a community, whether or not a transportation agency, in order to give a complete service should not have the facilities of a terminal, terminal agent, rate information, facilities for tracing shipments and for processing claims?

A. I feel that they should, yes.

Q. What other highway transportation agencies do maintain the same type of terminal facilities that the Rock Island Motor Transit Company does in Ottumwa, if any?

A. To what specific points, or what direction?

Q. No, I am asking in general.

A. In general? Repeat the question, please.

(Question read.)

A. The Burlington Truck Line is about the only one I can think of.

[fol. 1251] Q. Now, the Burlington Truck Line, Transportation Company, operates between Ottumwa and Omaha, does it not?

A. They do.

Q. And also between Ottumwa, does it operate to the Tri-Cities, or does it go through Burlington and then into Chicago?

A. I could not state that for a fact.

Mr. Nolan: I guess that is all.

Exam. Carpenter: Cross-examination.

Cross-examination.

By Mr. Fowler:

Q. What direct bearing does this application have on shipments moving either in or out of Ottumwa?

A. To cite a specific example, if I may, we have one shipper that ships machine parts for automobiles, different types of castings and bearings to Omaha, a fairly regular movement. His shipments are seven to eight thousand pounds each. At the present time he either has to make separate shipments, or use some other trucking line. This particular shipper is very unhappy with the service given

by the Burlington Truck Lines on his pick-ups. They are very slow.

Q. That is the only interest that you have here today?

A. To protect and maintain the service now being given is my only interest.

Q. Between Ottumwa and Omaha?

A. Yes.

[fol. 1262] Q. All right. Now, what carriers are there operating between Ottumwa and Omaha?

A. Burlington, and Watson has rather infrequent service.

Q. Well, the Burlington Truck Lines, which is an affiliate of the Burlington Railroad, as I understand it, operates a truck service from Ottumwa to Omaha over a route parallel to the rail line of the Chicago, Burlington & Quincy Railroad, is that correct?

A. I believe it is.

Q. And, at the present time, in addition to the service of the Burlington Truck Line, the Watson Bros. Transportation Company has authority to transport freight from Ottumwa to Omaha?

A. They do.

Q. Now, what other carriers are there that are not only authorized to serve but are performing a service between Ottumwa and Omaha?

A. Off hand I can't think of a one.

Q. Now, Ottumwa is located on the main line of the Chicago, Burlington & Quincy Railroad between Chicago and Omaha?

A. That is correct.

Q. And the route of the Burlington Truck Lines to Omaha is a direct route, is it not?

A. It is.

Q. The route that would be used by the Rock Island Motor Transit Company, in the event this application was granted, [fol. 1263] would be from Ottumwa north to Des Moines, and then from Des Moines over U. S. Highway 6 to Omaha?

A. Yes.

Q. Now, what is the type of traffic which this client of yours has moving to Omaha?

A. Bearings and castings of various sorts.

Q. And in what quantities are they shipped?

A. I would say roughly, seven, eight, nine thousand. It varies according to the order.

Q. And since this restriction has been put on how is he handling them?

A. He has been a little inconvenienced. He still prefers the Rock Island, so he has been making separate shipments.

Q. He is using the Rock Island Railroad?

A. The Rock Island Truck Line.

Q. The Rock Island Truck Line irrespective of this restriction?

A. He is.

Q. Rather than give it to the Burlington Truck Lines?

A. Right.

Q. Or rather than give it to Watson Bros. Transportation?

A. Right.

Q. What other railroads serve Ottumwa?

A. We have the Milwaukee, the Wabash, the Burlington and the Rock Island.

Q. Now, what other railroad, other than the Chicago, [fol. 1264] Burlington & Quincy and the Rock Island serve Omaha direct from Ottumwa? Does the Wabash serve Omaha direct from Ottumwa?

A. I don't believe so. I wouldn't state that as a fact.

Q. As a matter of fact doesn't the Wabash have a line that goes down to Kansas City, and one that goes north to Omaha? I understand that is not correct. I will withdraw the question.

Q. Does this shipper you are talking about use the rail service of the Chicago, Burlington & Quincy between Ottumwa and Omaha?

A. He does not, no.

Mr. Nolan: There are a couple of matters that seem to need a little clarification.

Redirect examination.

By Mr. Nolan:

Q. Now, on these shipments this particular shipper has to Omaha, where they exceed five thousand pounds, do I

understand you mean he breaks them into shipments so they come under the five thousand pounds?

A. He does.

Q. Now, what is the fact as to whether or not you have acquainted yourself with other traffic moving between Ottumwa and Omaha, or in the reverse direction, over the Rock Island Motor Transit Line, other than this one particular shipper you spoke of?

A. I have contacted several other shippers. The Sieg-Ottumwa Company receives quite a lot of automobile parts from the Omaha area there.

[fol. 1265] Q. Any other shippers you informed yourself about, shippers having shipments come over the Rock Island Motor Transit Company from Omaha?

A. There is some movement of flour to our local factories, but there isn't too much movement of that; generally in larger quantities carload.

Mr. Nolan: I believe that is all.

Recross-examination.

By Mr. Fowler:

Q. Let's talk about the Sieg Company. The shipper you have reference to is an automotive supply store, I believe?

A. Yes.

Q. Called the Sieg-Ottumwa Company?

A. Yes, that is correct.

Q. And his shipments are incoming shipments from Omaha?

A. Yes.

Q. And in what quantities?

A. I could not give specific weights. They would be definitely under the five thousand pound bracket.

Q. They would be under the two thousand pound limit, too, wouldn't they?

A. Probably would.

Q. And the same service is available to him? He could use the Burlington Truck Lines, could he not?

A. He could.

[fol. 1266] Q. He could use the Chicago, Burlington & Quincy Railroad, could he not?

A. He could.

Q. Or he could use the Rock Island Motor Transit?

A. He could.

Q. Or the Rock Island Railroad Company?

A. He could.

Mr. Fowler: Or any other carrier that has the authority and performs the service between Ottumwa and Omaha. That is all.

Mr. Nolan: That is all, Mr. Murray.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Nolan: Mr. Clapp.

CHARLES CLAPP was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you give us your name, place of residence, and occupation, please?

A. Charles Clapp, Terminal Agent at Ottumwa.

Q. And how long have you been so engaged, Mr. Clapp?

A. Four months in Ottumwa, about four months.

Q. What has been your experience in the motor transportation field?

A. Well, this is my first as an agent, but I have worked [fol. 1267] for the Rock Island Motor Transit Company for the past nine years doing clerical work, clerical work.

Q. In what office?

A. I was in Lincoln, Atlantic and Des Moines, and for the past year before I went to Ottumwa I was Relief Clerk for the Rock Island Motor Transit Company.

Q. And in your work as clerk with the company did you familiarize yourself with the method of doing business of transportation of the company and also acquainted yourself as to the flow of traffic?

A. Yes, I think I did.

Q. And, as I understand it, as Relief Clerk, or Relief Agent, you have worked in practically all of the different terminals of the Rock Island Motor Transit Company?

A. The biggest majority.

Q. You say you have been at Ottumwa for how long?

A. About four months.

Q. And were you acquainted with the work done by that office prior to the time you went there?

A. Well, I had done some relief work there, but it was in clerical work.

Q. Now, what personnel do you have under your supervision at your Ottumwa terminal?

A. Well, we have a rate clerk, and then the O. S. & D., our terminal clerk who has charge of the manifesting bill-
[fol. 1268] ing, O. S. & D. work, and then we have the seven city men work on the dock, the city pick-ups, and three drivers that are over-the-road drivers.

Q. And where is your terminal located in Ottumwa?

A. 212 South Union Street.

Q. And where is that located with reference to the freight depot of the Rock Island Railroad?

A. Well, they are combined in one building.

Q. Yes.

A. But separated by a wall.

Q. You have one end of the old rail freight depot?

A. Yes.

Q. And the railroad uses the other side?

A. Yes, sir.

Q. Do you use the office of the railroad agent there?

A. We do.

Q. Do you solicit business for the Rock Island Motor Transit Company in Ottumwa?

A. Yes, I do.

Q. Do you do any soliciting of business for the Rock Island Railroad there?

A. No, I don't.

Q. How about the rail agent at Ottumwa, does he solicit business for the Rock Island Motor Transit?

A. No, he does not.

[fol. 1269] Q. Now, if a shipment comes into Ottumwa on

rail billing by the Rock Island Motor Transit Company, what is done with that shipment?

A. Well, it is unloaded by the rail employees and the rail expense bill, and they send it down to us and they help load it on to the pick-up truck, and we deliver it.

Q. As I understand the Rock Island Motor Transit Company performs the pick-up and delivery for both the transit company and the railroad company?

A. They do, that is right.

Q. What do you mean by that term, "The rail agent or rail employees expense bill"?

A. It comes in on a way-bill and it is also on a motor transit manifest, their way-bill number, the destination, the consignee, the total number of pounds, and total number of pieces. After that is unloaded and checked, the dock foreman for the rail takes it up to the rail office, and they have to rebill this on another bill. That is what I call expensing, putting in the freight charges, and then it is delivered off of that bill they expense.

Q. All of that billing and rebilling and expensing from that way-bill is all done by rail employees?

A. That is right.

Q. Now, Mr. Clapp, were you familiar with the transportation handled by the Rock Island Motor Transit Company [fol. 1270] in and out of Ottumwa prior to last, prior to the time you went there?

A. Not too familiar, no.

Q. Well, now, can you tell us what traffic is moving in and out of Ottumwa at the present time by the Rock Island Motor Transit Company?

A. You mean in the operation——

Q. In the territory affected by the old White Line authority.

A. We have a truck Monday through Friday goes to Chicago every night out of Ottumwa. Then, we have the one going to Cedar Rapids each night.

Q. Now, how does that truck that goes from Ottumwa to Cedar Rapids, how does that move?

A. That moves by way of 34 to Fairfield, and then goes over 92, I believe it is, to Iowa City. It peddles all of the way along.

Q. Now, does that handle both intra and interstate freight.

A. Yes.

Q. The truck from Ottumwa to Cedar Rapids?

A. Yes.

Q. And part of the White Line operation was the segment of the line that run up to Cedar Rapids, was it not?

A. Yes, that is right.

Q. Now, this truck that goes from Ottumwa to Cedar Rapids, doesn't that go, it goes to Fairfield on 34?

A. That is right.

[fol. 1271] Q. Then up to Washington?

A. Yes, it goes to Washington on 92.

Q. And east on 92 to 218?

A. To Iowa City.

Q. And north on 218 through Iowa City to Cedar Rapids?

A. To Cedar Rapids.

Q. You say that has both intra and interstate traffic on it?

A. Yes, it does.

Q. How about traffic moving from Ottumwa to points such as Omaha and beyond Omaha? Is there any regular flow of traffic that the Rock Island Motor Transit Company is handling between Ottumwa and Omaha and points beyond Omaha?

A. Yes, it goes from Ottumwa to Des Moines, and then from Des Moines to Omaha.

Q. To Omaha, that is right. That is our route, but I am saying, is there business? Do you handle shipments between Ottumwa and Omaha over that route?

A. Yes, we do.

Q. And is there a regular flow of traffic or regular shipments handled by the Rock Island Motor Transit Company from Ottumwa via Des Moines, thence over U. S. Highway No. 6 to Omaha?

A. Yes, there is.

Q. And is there traffic in the reverse order, between Omaha and Ottumwa?

A. Yes.

[fol. 1272] Q. Now, does any other highway transportation company maintain the same type of terminal and terminal facilities that your company does at Ottumwa?

A. The only one I would know of would be the Burlington.

Q. And were you here this morning when Mr. Adams testified?

A. Yes. He was from the Burlington-Chicago Cartage.

Q. Yes, and is the interchange at Ottumwa with the Rock Island Motor Transit substantially as he described it?

A. Yes, it was.

Q. And is there a substantial volume of traffic moving from Mr. Adam's company, the Chicago-Burlington Transportation Company?

A. Yes, there is.

Q. With your company at Ottumwa?

A. Yes, as he said there is monthly.

Q. Is there other traffic moving, other than that advertising material?

A. Yes, there is other, too.

Q. And small shipments?

A. Smaller shipments.

Q. I believe he testified he didn't recall or not whether there was any traffic turned over by the Rock Island Motor Transit Company to Illinois destinations served by his company. Is there any such traffic?

A. Well, not too much.

Q. Is there an occasional shipment?

[fol. 1273] A. An occasional shipment. Most of that freight would be taken to Davenport and interlined there, or to Chicago for Illinois points.

Q. How about for such points as Kewanee, Monmouth and Galesburg?

A. I think that would go to Davenport.

Q. That would go through the Davenport gateway of your company rather than at Ottumwa?

A. Yes.

Q. Now, state whether or not you have had tendered to you shipments in excess of five thousand pounds since you have been in Ottumwa, which shipments you have had to refuse to handle on account of the limitation on the White Line authority.

A. Yes, we have had quite a number of those.

Q. Well, state whether or not, as testified to by Mr.

Murray, there are shippers that have voluntarily split their shipments to bring them within the five thousand pound limitation?

A. That is right. They have been doing that.

Mr. Nolan: That is all.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Fowler:

Q. Mr. Clapp, at Ottumwa you have your freight dock in the same building as the railroad has its freight house?

A. That is right. It is partitioned off.

Q. Is it separated by a chalk line or by a partition?

Mr. Nolan: That is objected to as being facetious.

[fol. 1274] By Mr. Fowler:

Q. Is it separated by a chalk line or a partition?

A. Partition.

Q. And what type of partition, a wooden partition?

A. A wooden, and they have a sort of a steel door they close each night at five o'clock.

Q. In other words, it is open, then, through the day?

A. That is right.

Q. And that is the passageway by which the freight travels from the railroad dock to the motor freight dock?

A. That is right.

Q. Now, a shipment arrives via the truck, and this particular shipment is on motor freight billing. That is delivered to the portion of the dock occupied by the Rock Island Motor Transit?

A. That is right.

Q. By the over-the-road truck. Now, let's assume a shipment is on that truck that is sailing under rail billing. Where is that unloaded?

A. That is unloaded on the rail side. The rail unloads all of their freight.

Q. In other words, then, the over-the-road truck when it arrives at Ottumwa, would pull up to the freight plat-

form where it unloads the Rock Island Motor Transit freight, isn't that right, and then it would pull on physically to the other portion of the dock?

[fol. 1275] A. That now depends on the shipment.

Q. Yes.

A. If it is a large shipment——

Q. Go ahead and explain how it would be handled.

A. They would pull over and unload on the rail dock, but the railroad employees unload it off the motor truck.

Q. In other words, then, it is not unusual for the Rock Island Motor Transit dock facilities to unload the Rock Island Motor Transit freight from the trailer, and then the railroad employees come in and unload the railroad freight, is that correct?

A. I think so.

Q. And then when they unload the railroad freight do they physically transport it from the Rock Island Motor Freight dock to the railroad dock?

A. The rail employees do that, yes.

Q. All right, and when it is delivered to the consignee, it is delivered on a pick-up and delivery truck of the Rock Island Motor Transit Company?

A. That is right.

Q. Now, does the Rock Island Motor Transit Company load their freight on to the delivery truck, or does the railroad labor do it?

A. The railroad labor. The Motor Transit driver checks [fol. 1276] the freight as it is loaded on.

Q. Yes. Now, outgoing freight, and you have no drayage company in Ottumwa other than the Rock Island Motor Transit?

A. That is right.

Q. A rail shipment is picked up by the Rock Island Motor Transit?

A. Yes, sir.

Q. And taken to the rail dock?

A. Yes, sir.

Q. And unloaded by the rail dock labor?

A. Yes, sir.

Q. Billed by the rail dock billing clerk?

A. Yes, sir.

Q. And then is loaded on to the truck by rail labor?

A. Yes, sir.

Q. Now, when a pick-up truck starts out in the morning, it picks up both rail and motor transit freight?

A. No, we have the one truck that delivers and picks up for the rail.

Q. In Ottumwa you have separate pick-up and delivery trucks?

A. That is right.

Q. All, however, owned and operated by the Rock Island Motor Transit Company, is that correct?

A. That is right.

Q. Now, is there any charge made to the customer for [fol. 1277] the pick-up and delivery service performed for the railroad?

A. Not that I have any knowledge of.

Q. Is there any charge made by the Rock Island Motor Transit Company to the railroad for the pick-up and delivery service it performs in Ottumwa?

Mr. Nolan: That is objected to as not proper cross-examination. We will have a witness on that. Go ahead. It is not cross-examination. We never went into that with this witness.

Exam. Carpenter: I know you didn't.

Mr. Nolan: That is all.

Exam. Carpenter: Do you withdraw the objection?

Mr. Nolan: I don't think this witness knows.

Mr. Fowler: I want to find out whether he does or not.

Exam. Carpenter: All right, strike the objection out. Do you know?

A. No, I am not familiar with that.

Exam. Carpenter: That settles that.

By Mr. Fowler:

Q. You are not aware of the character of the charge which is made by the Rock Island Motor Transit Company against the Rock Island Railroad for the pick-up and delivery service which it performs for the railroad company?

A. No, I am not.

Q. Now, with respect to shipments which you say have been tendered to you in excess of five thousand pounds [fol. 1278] since this restriction became effective, how have you handled those if you have handled them?

A. Well, the shipper usually calls in, and if he says he has a shipment going to Omaha or to Chicago, we ask him the weight of it, and we tell him we can't handle anything over five thousand pounds, and he sometimes breaks it down into two shipments so we are able to handle it.

Q. All right. Have you had situations arise where that traffic was billed on rail billing and handled on the truck under rail billing?

A. Not to my knowledge, no.

Q. Have you had any situations where that traffic was then tendered to one of the other carriers serving Ottumwa?

A. I do not know.

Q. In other words, then, you haven't lost any business by reason of the five thousand pound restriction?

A. Well, they probably wouldn't all break them down into those small amounts because of the rate.

Q. Well, do you know of any business you have lost because of this five thousand pound restriction?

A. Well, the five thousand pound restriction was on when I went there, and had been on for quite some time, and right off hand I don't know of any.

Q. You are not aware of any at the present time which you have lost, is that correct?

[fol. 1279] A. Yes, that is right.

Q. Now, the peddle truck which serves the points east of Ottumwa and north to Iowa City and Cedar Rapids, that departs Ottumwa approximately what time?

A. About seven p. m.

Q. And freight destined to what points is loaded on that peddle truck?

A. That is the one going to Cedar Rapids you mean?

Q. Yes.

A. Well, there is Eldon, Libertyville, Fairfield, Pleasant Plain, East Pleasant Plain, Brighton, Washington, Ainsworth, Cotter, Columbus Junction, Letts, Muscatine, Nichols, Lone Tree, and then Iowa City, into Cedar Rapids.

Q. Does that peddle truck handle both rail and motor billed freight?

A. It does.

Q. What proportion of that is rail billed freight?

A. I think it is about thirty-three per cent.

Q. In other words, about one-third of that traffic is sailing under rail billing?

A. Yes.

Q. Now, you have another peddle operation out of Ottumwa north to Des Moines?

A. Yes.

Q. And that departs Ottumwa approximately what time?

[fol. 1280] A. Well, that is, I would say, around 10:30 or 11:00 o'clock in the morning.

Q. And what intermediate points are served on that operation?

A. Well, Eddyville, Prairie City, Pella, Monroe.

Q. And about what proportion of that traffic is rail traffic?

A. Well, I would say about the same.

Q. Now, on the return trip I presume that peddle turns around and returns to Ottumwa from Des Moines and serves those same points on the return trip?

A. That is right.

Q. And, by the same token, your Cedar Rapids peddle turns around and serves those same towns on the return trip?

A. That is right.

Q. Now, the only effect of this application we are talking about today, as I understand it, has to do with service between Ottumwa and Omaha. Now, at the present time you are handling shipments from Ottumwa to Omaha by motor truck by through service, or is it handled by the peddle truck to Des Moines and then transferred to another truck for delivery to destination at Omaha?

A. Transferred to another truck in Des Moines.

Q. Is that same true on the return trip?

A. I imagine it is.

Q. Now, in addition to the Rock Island Motor Transit, Ottumwa is served by the Burlington Truck Lines?

[fol. 1281] A. Yes.

Q. By Watson Transportation Company?

A. Yes.

Q. And by what other carriers that operate over U. S. 34 between Omaha and Chicago?

A. Well, between Omaha and Chicago?

Q. Well, confine the question to Omaha to Ottumwa. What other carriers, other than those I have mentioned, have a service into Ottumwa? In other words, your competitors?

A. I can't think of any right now.

Q. You can't think of any at all? Does Watson Bros. Transportation Company maintain a terminal at Ottumwa?

A. They dock with the McCall Transfer.

Q. Is the McCall Transfer a local transfer and storage company?

A. He is classed as their drayman I would say. He delivers their freight for them and picks it up.

Q. I see, and the McCall Dray Line has the terminal and dock there?

A. Yes.

Q. And that is where Watson Bros. docks. Where does the Burlington Truck Lines have its terminal?

A. Well, in the Burlington freight house, but I don't know just the location of it, the street address, or anything like that.

Q. Now, with respect to your peddle operation north from Ottumwa enroute to Des Moines, about what tonnage will [fol. 1282] that truck have as a customary matter?

A. Well, it will be all of the way from eight thousand to fifteen thousand.

Q. Fifteen thousand would be tops, ordinarily?

A. Occasionally, but sometimes more.

Q. Ordinarily it is not over ten thousand pounds?

A. Ten, twelve thousand, fifteen thousand.

Q. O. K. Now, on the peddle truck that operates out of Ottumwa daily to Cedar Rapids, when it departs Ottumwa about what would be the tonnage on that vehicle?

A. We usually have that pretty well filled.

Q. Now, you handle a large volume of intrastate freight out of Ottumwa?

A. Quite a lot, yes.

Q. North to Cedar Rapids?

A. That is right.

Q. And the same thing is true from Ottumwa to Des Moines?

A. Yes, sir.

Q. Now, what is the type of interstate freight which you originate at Ottumwa for destination to Omaha?

A. Oh, that is castings, tires, some furniture, miscellaneous merchandise.

Q. All right. What is the type of traffic which you originate at Omaha and destined to Ottumwa which moves in interstate commerce?

[fol. 1283] A. Well, that is tires and automotive parts.

Q. All right. Now, you have interline arrangements at Ottumwa with the Burlington-Chicago Cartage, Inc., and its affiliated companies?

A. Yes.

Q. The witness who testified here stated that their interline arrangement consisted largely of advertising material which moves once a month to points located on U. S. Highway 6 west of Davenport.

A. That is right.

Q. Is there any other traffic of any substantial quantity that is interlined to you at Ottumwa by the Burlington-Chicago Cartage, Inc.?

A. Well, I don't think any larger quantities than that, any more weight.

Q. Now, with what other carriers do you interline at Ottumwa?

A. Green.

Q. H. B. Green Transportation Company?

A. H. B. Green Transportation Company. Hannibal-Quincy.

Q. Hannibal-Quincy Truck Lines?

A. Yes.

Q. Is that all?

A. Churchill.

Q. Churchill Truck Lines?

A. Yes. That is about all I can think of.

[fol. 1284] Q. H. B. Green is a transportation carrier that operates from Burlington west?

A. Yes.

Q. And the Hannibal-Quincy Truck Line operates from Hannibal, Missouri, to Quincy, Illinois?

A. I think they go to St. Louis.

Q. Do they get into Ottumwa? Do they serve Ottumwa?

A. They do.

Q. And the Churchill Lines, where are they located?

A. Chillicothe.

Q. Chillicothe, Missouri. Now, with respect to your interstate shipments originating Ottumwa and destined Chicago, first, let me ask you what carriers presently afford a service between Ottumwa and Chicago?

A. Well, Hawkeye.

Q. Hawkeye——

A. Transfer.

Q. Is that the Hawkeye Motor Express?

A. I guess that is what they call it.

Q. And that company has its headquarters at Cedar Rapids, is that correct?

A. Yes, sir.

Q. All right. They have an Ottumwa-Chicago operation. All right. What other carriers?

A. I don't think of any.

[fol. 1285] Q. What about the Burlington Truck Lines?

A. I imagine they do. I don't know.

Q. And what about Watson Bros. Transportation Company?

A. I couldn't say.

Q. You don't know?

A. No, I don't.

Q. Now, in addition to that, is Ottumwa located on the main line of the Chicago, Burlington & Quincy Railroad and then other railroads serve Ottumwa that can also serve Chicago?

A. Tell you the truth I have not been there long enough to get acquainted and know the railroads.

Q. What type of traffic do you originate at Ottumwa destined to Chicago?

A. Well, we have tires, automotive parts, lawn mowers and hardware, not too much hardware. I wouldn't say hardware.

Q. What type of traffic is originated at Chicago destined to Ottumwa?

A. Well, quite a lot of furniture comes from there, and tires, and we get most all of Woolworth's merchandise out of Chicago and the Kresge Store.

Q. Does the Rock Island have a Chicago-Ottumwa merchandise car? Does rail freight moving in from Chicago and eastern connections to Ottumwa that is under rail billings moves from Chicago to Ottumwa by merchandise car?

A. No.

[fol. 1286] Q. Do you have any merchandise car service into Ottumwa at all?

A. Well, I imagine there would be by rail.

Q. That is what I meant.

A. Yes. I don't keep track of the rail movement.

Q. I understand, but let me ask you this. Assuming there is a merchandise rail car service to Ottumwa from Chicago, that would be unloaded by rail labor?

A. That is right.

Q. And then would be turned over to you for delivery?

A. They would load it, you mean, direct for Ottumwa? Yes, it would be turned over to us for delivery.

Q. And your pick-up and delivery trucks would handle the merchandise car freight the same as you do the truck freight?

A. Yes.

Q. Is there a merchandise car service from Omaha?

A. Not to my knowledge.

Q. If you had an overflow of motor carrier traffic destined to Chicago that you couldn't load on your unit moving north that night, would you load that back on a merchandise car?

A. No.

Q. Do you load any Rock Island Motor Transit freight on a rail car?

A. No.

Q. In any event at Ottumwa?

A. No, I never have.

[fol. 1287] Mr. Fowler: At Ottumwa. That is all.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Nolan:

Q. Mr. Clapp, in regard to the line between Ottumwa and Des Moines, state what the fact is whether or not that line also serves Oskaloosa and Pella, Iowa.

A. It does Oskaloosa. I mentioned Pella, I think, but I forgot Oskaloosa.

Q. I think you mentioned Prairie City?

A. Prairie City.

Q. Now, in regard to your interline operations at Ottumwa, in respect to the Hannibal-Quincy Truck Line, which serves, as I understand, St. Louis and Hannibal, Missouri, and Quincy, Illinois, and on into Ottumwa, they also operate, I believe, into Burlington.

A. Yes, they do.

Q. And from Burlington out to Ottumwa?

A. Yes.

Q. State whether or not you have observed any traffic moving from points originating on that line interlined with your company at Ottumwa to points on the White Line between Davenport and Omaha.

A. Oh, yes, we do get.

Q. In other words state what the fact is as to whether or not you have a regular flow of traffic interlined at [fol. 1288] Ottumwa with the Hannibal-Quincy Truck Lines.

A. We do.

Q. For interior Iowa points?

A. That is right.

Q. And traffic originating along U. S. Highway 6 interlined at Ottumwa destined to points on the Hannibal-Quincy Line?

A. That is right.

Q. Would you say, do you interline freight parctically every day with the Hannibal-Quincy?

A. Practically every day.

Q. And what is the fact as to whether or not traffic may come from points on the Hannibal-Quincy Line interlined at Ottumwa for points along U. S. Highway No. 6 between Des Moines and Davenport and between Des Moines and Omaha?

A. We have quite a lot of that.

Q. Have you observed that traffic?

A. Yes, I have.

Q. Now, in regard to the Churchill Truck Lines, as I understand, that is the operation between Chillicothe, Missouri, and Ottumwa, Iowa, is that right?

A. I think that is it.

Q. And does that include Kirksville, Missouri, or other points in Missouri, or are you acquainted with that?

A. I am not too well acquainted with that. Our clerk routes the shipments and rates them, and sometimes I don't [fol. 1289] pay too much attention to them.

Q. Another question along that line. Is there a daily interchange of traffic between your company at Ottumwa with the Churchill Truck Lines?

A. I wouldn't say it was daily.

Q. Are there occasional shipments?

A. Oh, yes.

Q. And from your knowledge of points of origin and destination, state whether or not some of that traffic either originates at or is destined to points on Highway No. 6 on the Rock Island Motor Transit Line?

A. Yes, it is.

Q. Now, in regard to the employees of the Rock Island Motor Transit Company and the employees of the Rock Island Railroad Company, do they occasionally speak to each other?

A. Yes, they do.

Mr. Nolan: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

Exam. Carpenter: The hearing is adjourned until 9:30 tomorrow morning in the same room.

(At 5:15 p. m., March 25, 1952, hearing adjourned to 9:30 a. m., March 26, 1952.)

[fol. 1290] TRANSCRIPT OF PROCEEDINGS OF MARCH 26, 1952

Exam. Carpenter: Gentlemen, you may proceed. Are there additional appearances?

Mr. Archambo: Mr. Examiner, please, Henry A. Archambo, Assistant Director of Traffic, Minneapolis Traffic Association, a Class B Practitioner, appearing in support of the applicant. My last name is spelled A-r-c-h-a-m-b-o, and the address is Minneapolis, Minnesota.

PAUL FARBER was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name so we may all get it, please?
A. Paul Farber.
Q. You live where, Mr. Farber?
A. Pella, Iowa.
Q. And what concern are you connected with?
A. The Rolscreen Company.

By Mr. Bradshaw:

Q. What screen company?
A. Rolscreen, R-o-l-s-c-r-e-e-n.

By Mr. Howland:

Q. In what business are the Rolscreen Company of Pella engaged?

A. We make windows, rolling window screens, venetian blinds, and folding doors.

Q. And those are both of wooden construction and also metal casement windows?

[fol. 1291] A. That is right, wooden-metal combination.

Q. Mr. Farber, Pella is a community of about what population?

A. About four thousand.

Q. And that is located on U. S. Highway——

A. 163.

Q. 163. And about how far from Des Moines and about how far from Ottumwa?

A. About forty-two miles from Des Moines and forty-five miles from Ottumwa, midway.

Q. The only rail facilities there is what is known as the Keokuk and Des Moines Branch of the Rock Island Railroad, I believe?

A. That is correct.

Q. Have you had occasion to use the service of the Rock Island Motor Transit Company as a motor carrier for the handling of the products of the Rolscreen Company, either inbound or outbound?

A. We use them almost exclusively.

Q. Your position with the company I don't believe we have in the record.

A. I am Sales Manager and Treasurer.

Q. Now, in what territory are the products of the Rolscreen Company sold?

A. We distribute nationally.

Q. And I suppose that probably your largest sales territory is in the middle western part of the United States, [fol. 1292] but you sell throughout the whole country?

A. Our heaviest sale is north of the Mason and Dixon line and east of Nebraska.

Q. Now, your shipments of raw materials inbound are usually handled in what manner? Are they handled in part by truck or by rail shipments?

A. Well, for the most part by truck. The lumber, of course, comes in by rail, but substantially all of the other parts by truck, the steel and so on.

Q. Now, is that usually handled by common carrier trucks or by some other type of service?

A. Generally by common carrier.

Q. Now, what is your particular interest in the application which is pending before the Commission that has been made by the Rock Island Motor Transit Company?

A. Well, our interest is in maintaining the service to all points primarily. The Rock Island Motor have given us a service which we haven't been able to duplicate through any other similar service. We are more or less of a peddle point stop, so to speak.

Q. Well, on your outbound shipments in what quantities are those shipments made, Mr. Farber?

A. Well, we shipped about, I would say, through the Rock Island in the past year somewhere in the neighborhood of twelve to fourteen million pounds.

Q. And about what would be the variation in the size of [fol. 1293] the individual shipments that you would be tendering?

A. It would vary from less than one hundred pounds to over five thousand pounds.

Q. And do you have occasion to make shipments in excess of five thousand pounds from your Pella plant?

A. Many shipments, multiple window orders.

Q. And is there a need, so far as your business is concerned, for an increase in the weight limit which the Rock Island Motor Transit Company is presently operating under?

A. Well, it would be because in larger window orders, which are quite general, if we have to make two shipments, for example, to fall within the limits, whatever it might be, it is, it is an inconvenience in delivery, inconvenience to the customer and generally unsatisfactory so far as our operation is concerned. We have many shipments in excess of five thousand pounds.

Q. Now, what motor carriers have been serving your plant at Pella in recent months?

A. Well, the Burlington, some Bruce although we have difficulty there because they just don't like to stop. They can not give us any continuous service. If we have trucks going through where they have space available, so to speak, then they can pick up our merchandise, but we don't know from day to day just exactly what they can take, with the result we don't know just exactly when the shipments are leaving.

[fol. 1294] Q. Watson also serves Pella?

A. Yes, Watson.

Q. Now, what territory, that is in what—withdraw that.

Q. Do you have shipments regularly moving from Pella to points between Des Moines and Omaha and west of Omaha?

A. Oh, yes, all of the time.

Q. And is that one of your regular territories in which you are making shipments through the Omaha gateway?

A. Yes, Denver, Salt Lake City and west, for example, are volume sales points.

Q. And do you also distribute your products to all points on Highway 6 across the State of Iowa?

A. I don't believe there would be any exception because we have about six hundred seventy-five dealers in the State of Iowa, which gives us a blanket coverage.

Q. Now, you understand in this hearing the Rock Island Motor Transit Company seeks to increase the maximum amount of the shipments and also to have its authority to operate as a motor carrier of commodities generally made permanent rather than on the present temporary basis, do you?

A. Yes, I understand so.

Q. What effect, if any, would the elimination or substantial curtailment of the present Rock Island Motor Transit Company's service have on your business, Mr. Farber?

A. We don't seem to be able to secure the same service [fol. 1295] from anybody else.

Q. And would it be detrimental to your business in there if you were unable to secure the service of the Rock Island Motor Transit Company?

A. Very definitely so, particularly since the new Postal regulations.

Q. Do you have occasion to make shipments in truckload quantities of either inbound or outbound at your plant?

A. On occasion.

Q. To or from these points where the shipments come from the east and would be interlined at Chicago, or come from the west and be interlined at Omaha?

A. Yes, we have truckload shipments, for example, of windows going west. We sell in tr loload quantities to Helena, Montana, for example, which uld go in that direction.

Mr. Howland: I think you may cross-examine unless there is something you wish to add.

Mr. Fowler: I object to that, please.

Mr. Howland: I withdraw that question, and I will ask you this.

By Mr. Howland:

Q. Is there anything that I have not inquired about, Mr. Farber, as to the manner in which your business might be affected by a substantial reduction in the motor carrier service of the Rock Island Motor Transit Company?

A. Well, I would like to make this statement, that we [fol. 1296] have, of course, been doing business in Pella for the last twenty-eight years, and we have been exposed to all manner of motor carrier service. We have stabilized upon the present one because it has been the first time we have been able to get satisfactory and adequate service because of our location. We have lots of people shopping us for the business, but they have not been able to give us a duplicate service.

Q. I would like to inquire what other industries, if any, are located in Pella, and I don't know whether the record shows the population of your town or not.

A. About four thousand people. There are no other industries of similar size to our own, but there is an overall factory there that employs about sixty or seventy people, the produce company, the Ver Meer Manufacturing Company that are employing thirty to forty people, the Buerkens Farm Machine, and we also have a small foundry, and that is about it.

Mr. Howland: I think you may cross-examine.

Exam. Carpenter: Cross-examine, Mr. Fowler.

Cross-examination.

By Mr. Fowler:

Q. As I understand it the town of Pella is located on the C. B. & Q. Railroad as well as the Rock Island Railroad. How does the Burlington Truck Lines serve Pella?

Mr. Howland: Intrastate only. There is a lot of history connected with that.

By Mr. Fowler:

Q. O. K. Do you use the Burlington Truck Lines any in [fol. 1297] regard to your interstate movement?

A. No.

Q. Or Bruce Motor Freight, Inc. serves Pella?

A. Well, just on the basis which I outlined.

Q. I mean they have handled some traffic for you?

A. But it isn't a consistent carrier for us.

Q. I understand that, but they have handled some traffic?

A. Yes, they have.

Q. And they are handling some for you now?

A. That is right.

Q. And the Watson Bros. Transportation Company handle some for you, and are now?

A. That is right.

Q. And, in addition to that, what other carriers are there?

A. Well, we have this, outbound you are speaking about?

Q. Outbound or inbound.

A. Western.

Q. According to my information does the Gateway have authority in Pella?

A. That I don't know.

Q. Have you ever used them?

A. Not to my knowledge.

Q. Have you ever used the Merchants Motor?

A. We used to but no longer for personal reasons.

Q. But they have service?

[fol. 1298] A. No, I don't believe that is correct.

Q. You don't think they serve Pella?

A. No, they do not.

Q. Western Trans., have you ever had any contact with them?

A. Not to my knowledge.

Q. Now, a five thousand pound shipment since this restriction has been applicable, how have you handled it?

A. Well, I can not be certain whether we have broken them down and shipped them as separate shipments. I presume that is the manner in which it has been handled. I am not the Traffic Manager. I would be guessing on that point.

Q. Well, am I correct in my understanding since this restriction has been applied you have been using some of these other carriers on your volume shipments?

A. That is entirely possible.

Mr. Fowler: That is all.
Exam. Carpenter: Redirect?
Mr. Howland: I think that is all.
Exam. Carpenter: You are excused.

A. Thank you.

(Witness excused.)

Mr. Nolan: Mr. Hartnett, will you come forward, please?

J. J. HARTNETT was sworn and testified as follows:

Direct examination.

[fol. 1299] By Mr. Nolan:

Q. Will you state your name, place of residence, and your occupation, Mr. Hartnett?

A. My name is J. J. Hartnett, Traffic Manager, Paxton & Gallagher Company, 9th & Jones, Omaha.

Q. And how long have you been so associated with the Paxton & Gallagher Company?

A. A little over twenty years.

Q. And has all of that time been in Omaha?

A. Yes, sir.

Q. And what products do the Paxton & Gallagher Company handle?

A. Well, they have a large roasting, coffee roasting plant, and we distribute the roasted coffee in fifteen States. They have a coffee business throughout the entire scope of this application. They have a hardware division, distributing in both Iowa and Nebraska and southern Minnesota. We have a liquor division but that is confined to Nebraska only.

By Mr. Howland:

Q. You don't distribute that in Iowa?

A. No. We would like to.

By Mr. Nolan:

Q. Now, Mr. Hartnett, is the Paxton & Gallagher Company one of the older establishments in Omaha in the wholesale business?

A. Established in 1864.

Q. And what is the personnel in numbers of the Paxton & Gallagher Company?

A. Well, since we disposed of our grocery division a [fol. 1300] couple of years ago we have about five hundred employees, I would say, in all divisions.

Q. And do you have salesmen making the territory covered by your company?

A. We do.

Q. Now, Mr. Hartnett, you are familiar with the application here under consideration, are you not?

A. Yes.

Q. And I believe you appeared at the hearing on the application for temporary authority?

A. And in the original hearing when the Rock Island first acquired the rights.

Q. And was your company using the services of the White Line Motor Freight Company before the Rock Island took over?

A. Yes.

Q. And has your company been continuously in use of the service of the Rock Island Motor Transit Company since it started serving the territory formerly served by the White Line?

A. We have used it continuously.

Q. And will you state for the record, Mr. Hartnett, the use that your company has made of the Rock Island Motor Transit's service from Omaha to where in the territory served by the Rock Island?

A. We have used it to practically all points to which the Motor Company has authority, not exclusively, but we have preferred the Rock Island for many reasons, particularly along Highway 6 in Iowa because of the good [fol. 1301] service that they have given and because they have maintained it uniformly throughout the years.

Q. I will ask you, Mr. Hartnett, whether that service

took care of volume shipments, I mean included volume shipments as well as L. T. L., less than truckload shipments.

A. Yes. We have many volume shipments of coffee. For instance, during 1951 we drew off a list, January to August, and there were fifty truckloads moved from Omaha to points in Iowa on the Rock Island Motor.

Q. The Rock Island Motor Transit Company?

A. Yes.

Q. And to what points did those shipments move, if you have that data?

A. Des Moines, Davenport, Cedar Rapids, I will not repeat.

Q. No, just the principal points irrespective of whether or not they were repeat shipments.

A. Prairie View, that is the other way, Kansas. Cedar Rapids, that is repeat, the Tri-Cities, Ottumwa and Des Moines, Rock Island, Minneapolis. I guess that is all.

Q. How about Muscatine?

A. And Muscatine.

Q. Now, those were the volume or truckload shipments that you referred to?

A. Yes.

Q. How about less than truckload shipments? Did your [fol. 1302] company use the service of the Rock Island Motor Transit Company into the Iowa territory in the years past?

A. Here I drew off a list of shipments that moved in June of last year to various points, fifty-seven shipments.

Q. In the month of June?

A. Yes. I have the list.

Q. Could you tell us generally in what territory those shipments moved?

A. I could read the whole thing without too much trouble.

Q. Why don't you do it?

A. And the Pro Numbers also?

Q. Why don't you read the list of points?

A. All right, these are Iowa points.

Q. All right.

A. Colfax, East Pleasant Plain, Pella, Hancock, Dexter, Ellston, Davenport, Eddyville, New Hampton, Newton, Eldon, Colfax, Kensett, Northwood, Seymour, Allerton,

Wayland, Lineville, Pella, Garden Grove, Grand River, Weldon, Leon, Selma, Iowa City, Otley, Newton, Pella, Diagonal, Earlham, Mount Ayr, Shannon City, Casey, Newton, Rockwell, Mount Ayr, Muscatine, Davenport, Iowa Falls, Des Moines, Columbus Junction, Leighton, Blakesburg, Iowa Falls, Tingley, Muscatine, Pella, Des Moines, Muscatine, Des Moines.

Q. Now, Mr. Hartnett, although some of those points are not located on Highway No. 6, is it your understanding [fol. 1303] that shipments moving out of Omaha via the Rock Island Motor Transit Company moved out on Highway No. 6 to Des Moines, or some point like that, and then the shipment is transferred to one of the other lines of the Rock Island Motor Transit Company to destination?

A. Yes.

Q. Is that your understanding?

A. Yes.

Q. Now, what would you say would be the average size of those less than truckload shipments?

A. Well, this list here runs, Oh, all of the way from one hundred fifty pound shipments up to three thousand, thirty-four, thirty-five hundred in the L. C. L.

Q. Have you made any other—I will withdraw that.

Q. State whether or not the month of June, 1951, would be typical of shipments handled by the Rock Island Motor Transit Company for your company into the Iowa territory?

A. Well, apparently not because here is another list of shipments that moved in August. It seems to be much more extensive. It has many of the same points, of course, and others.

Q. Would you say the shipments moving in June in general, however, indicate the general territory that is served by your company in Iowa, isn't that correct, and the points in which you have shipments?

A. Yes. Speaking of weights here, I notice Columbus Junction of forty-one hundred on this second list.

[fol. 1304] Q. Could you tell us how many points without enumerating them by name, could you tell us how many shipments moved into the Iowa territory from your com-

pany from Omaha via the Rock Island Motor Transit Company during the month of August, 1951, in less than truckload quantities?

A. Without counting this I would say it is about, this is fifty-seven, about one hundred.

Q. And do those shipments, did those shipments move throughout the month, or did they move on any particular days of the month?

A. Well, it would be throughout the month.

Q. And then what would you say as to whether or not your company had almost daily shipments out of your company at Omaha into the Iowa territory by the Rock Island Motor Transit Company during the months of June and August, 1951, as reflected by those statements that you have there?

A. Yes. Now, I want to say further that these statements are referring only to coffee shipments.

Q. I see.

A. Hardware shipments are not listed on here, so there would be an additional number. It is a better and easier file to check in connection with the coffee.

Q. Now, to what points in Iowa do you have hardware shipments moving into the Iowa territory from Omaha?

A. Well, generally speaking our hardware salesmen don't go east of Des Moines. They make the entire State on a line north and south through Des Moines, on the west part. [fol. 1305] Q. Then, would it be fair to say you have hardware shipments moving into all points served by the Rock Island Motor Transit Company in the western part of the State of Iowa west of Des Moines?

A. Yes.

Q. And how about north of Des Moines, from Des Moines on up through Mason City, that territory?

A. Yes, we go up there.

Q. Such points as Iowa Falls, Hampton, Northwood, etc., is that correct?

A. That is right.

Q. Now, Mr. Hartnett, have you analyzed your hardware shipments to determine whether or not the movement into Iowa from Omaha by the Rock Island Motor Transit Company is also almost a daily situation?

A. Well, I would say it would not be as extensive as the coffee, but almost so in frequency of shipments.

Q. And what would you say as to the size of those hardware shipments?

A. Hardware would average, maybe, around fifteen hundred pounds, something like that.

Q. And would there be instances where there would be volume shipments, a truckload of hardware shipments?

A. No.

Q. It is all on small——

[fol. 1306] A. Small shipments.

Q. Now, in analyzing your records and knowing the Iowa territory, are there any points to which you would find the Rock Island Motor Transit Company provides the only direct, single line, service from Omaha?

A. Yes. Brighton is such a point, Buffalo, Columbus Junction, Durant, Hancock, Kalona, Otley, Princeton, Sharon Center, Washington, Wellman. Well, I think there are others, but that is representative at least.

Q. Now, Mr. Hartnett, have you found that although there may be other carriers that make the so-called smaller towns, who have authority to serve those towns, in fact they do not handle drop shipments for those towns?

A. Yes, I am sure that is true. For instance, Brady Motor Freight has authority into some of these towns, but has issued an embargo against any L. T. L.

Q. Yes, Brady Motor Freight has authority out of Omaha to serve many points along Highway No. 6 and points served by the Rock Island Motor Transit Company?

A. Yes.

Q. And has embargoed any less than truckload shipments to those points?

A. That is right.

Q. When was that embargo? When did it become effective?

A. Several weeks ago.

[fol. 1307] Q. Have you found other highway carriers that operate out of Omaha through the Iowa territory that do not provide a local drop shipment service to the smaller points even though they have authority to do so?

A. Well, we have had that situation at Brooklyn.

Q. Brooklyn, Iowa?

A. Brooklyn, Iowa.

Q. And state whether or not you have observed a trend on the part of some of the over-the-road carriers to go to overhead freight rather than peddling local freight?

A. Yes, that is my general impression. In fact some of their traffic men have told me so in the rate hearings, that peddle runs are too expensive. The general policy would be to curtail them.

Q. Now, what is the fact as to whether or not you have been informed by some of the carriers that it is impossible to provide a local delivery service for small shipments to small towns?

Mr. Fowler: Just a moment, please. That is objected to as hearsay.

Exam. Carpenter: Objection overruled.

A. Would you repeat the question?

Exam. Carpenter: Read the question.

Mr. Nolan: Read the question.

(Question read.)

A. Well, as I say, I have been in contact with a good [fol. 1308] many of the operators over a long period of years, and recently their general conversation has been along that line, that it is difficult to provide an L. T. L. service to those small towns.

By Mr. Nolan:

Q. Now, have you been informed by any particular carrier that they are going to suspend or abandon local service to some of the smaller towns to which they have authority in the Iowa territory out of Omaha?

Mr. Fowler: That is objected to on the grounds it is hearsay.

Exam. Carpenter: Objection overruled.

A. I have been so informed from time to time that the carriers would not take L. T. L. to certain towns.

By Mr. Nolan:

Q. And have those shipments been refused by carriers, tendered them by your company?

A. Yes. Brooklyn, as I stated, is one example.

Q. And is that typical, or is that the sole example?

A. Well, I happen to have that nailed down in this note here, is the reason.

Q. Of course, your company is quite a large company, and has a great number of shipments moving out of it daily, does it not?

A. Yes.

Q. And what you are trying to do is give the typical situation rather than the actual situation in each case?

A. That is right.

Q. Now, Mr. Hartnett, you say your company did use, [fol. 1309] or has used, the Rock Island Motor Transit Company, both for volume shipments and less than truckload shipments since it started operating up until the restriction was imposed?

A. That is right.

Q. Now, if the Rock Island Motor Transit Company was restored to its original operating rights, would your company again avail itself of the full service offered by that company into and through the Iowa territory?

A. Gladly.

Q. And what was the caliber of the service of the Rock Island Motor Transit Company during the years which you have used it, whether its service was satisfactory or otherwise?

A. It was uniformly good service.

Q. And state whether or not the Rock Island Motor Transit Company had in Omaha during all of that time a terminal, terminal agent, pick-up and delivery service, rate information, facilities for tracing shipments, making claims, tracing shipments, etc.?

A. Yes, they did have.

Q. And state whether or not in your opinion, Mr. Hartnett, it was necessarily necessary in a community where there are a great number of shipments going out over a truck line, that the full facilities such as an agent, rate

information, facilities for filing claims, tracing shipments, etc., be made available to the shipper.

[fol. 1310] A. Well, we think so. We have found the services of the Rock Island Motor for us at Omaha to be very satisfactory in regard to all of those things.

Q. Now, with the limitation placed upon the service of the Rock Island Motor Transit have you had any difficulty in getting volume shipments to any points formerly served by the Rock Island Motor Transit?

A. Well, there is other service to most of the points that I read there. Muscatine is one, however, where we make volume shipments, there is no authorized carrier so far as I know.

Q. Now, what experience have you had with the Rock Island Motor Transit Company on claims over the years?

A. It has been very satisfactory. We have had practically no trouble.

Q. And have you experienced some difficulty with other carriers serving the Omaha and Iowa territory?

A. Oh, yes.

Q. Now, what is the fact as to whether or not you do not make volume shipments to centers where you have storage facilities or warehouse facilities, and then the shipments go back out into the territory in small lots?

A. Well, we maintain our storage points, generally speaking, for the distribution in the town where the storage is maintained. That is usually a matter of meeting the competition of other companies who have storage and can [fol. 1311] provide local delivery on call. We do, however, make our shipments from some of those.

Q. That is what I was getting at. You have common shipments going into certain centers for redistribution, and you also ship direct out of Omaha to the same territories?

A. That is right.

Q. Now, what points involved in this proceeding do you have storage facilities, or warehouse facilities for storage, and then later reshipping to the small communities?

A. Des Moines, Cedar Rapids, Waterloo, Minneapolis, Minnesota.

Q. How about the Tri-City area, Davenport and Muscatine?

A. We have Davenport, yes, Davenport.

Q. And then, for instance, at Davenport do you have customers in points such as Durant, Walcott, Wilton Junction, West Liberty?

A. Yes, we have.

Q. And are those customers mainly served on a reshipment back out of Davenport?

A. Well, they are to some extent, but, as I stated, the storage points are maintained largely to serve the area in which the warehouse is located.

Q. I see.

A. And the cost factor enters into that. We often find it more expensive to ship into the storage point, pay storage charges, and the high minimum charges out.

[fol. 1312] Q. I see.

A. Whereas we could move from Omaha direct at a lower figure.

Q. I see. Now, what is the fact as to whether or not the service of the Rock Island Motor Transit Company, as your company has used over the years, is reasonably necessary for a full and complete service for your customers in the Iowa territory served by the Rock Island Motor Transit Company?

A. Well, as I stated earlier, the service has been used continuously and has been very satisfactory. Now, if as the result of these proceedings the Rock Island Motor service should cease to function, why we could serve a lot of these points by other motors, not so satisfactorily, but there would be some towns, as I pointed out, there would be no service, and the customers would be left high and dry apparently.

Q. And do you know of any transportation agency, or agencies, which could replace the service which the Rock Island Motor Transit Company has been providing your company in the Iowa territroy for these many years?

A. Not completely, no.

Q. And do you say, Mr. Hartnett, from your many years of traffic experience it is reasonably necessary for a carrier to have the volume and overhead trade, as well as the local freight, in order to give complete and full service to his customers?

A. I think that is almost clear on the face of it, that they must have the volume shipments in order to come out the [fol. 1313] right end of the horn.

Q. In your experience do you believe, and do you have an opinion, a carrier could not give service only to the small places on local shipments and maintain a satisfactory and complete service?

A. Well, I don't think they could do it very long, they could just do it in connection with very small shipments.

Q. You think they might last a while, but not long?

A. That is right.

Q. Is there anything else, Mr. Hartnett, I have not covered?

Mr. Fowler: I am going to object to that line of inquiry as not question and answer.

Exam. Carpenter: Objection sustained.

Mr. Nolan: He is an expert.

Mr. Fowler: I understand. I understand. So are you. Take that off the record.

Mr. Nolan: You may cross-examine.

Cross-examination.

By Mr. Fowler:

Q. How have you been handling these volume shipments since the restriction went on?

A. Any particular point?

Q. No, generally speaking, Mr. Hartnett. You have been giving that traffic to other established common carriers?

A. Yes, and some has gone back to rail.

Q. I was going to say whether as the result and effect [fol. 1314] of the restrictions, you have made some of these volume shipments in excess of five thousand pounds by rail, and others you have turned over to other carriers, other motor common carriers?

A. That is right.

Q. And I presume there are a number of railroads serving Omaha, are there not, into this territory? I presume the Rock Island Railroad, the Chicago, Burlington & Quincy Railroad?

A. Well, the Rock Island, the Milwaukee, the Burlington, that would be through the middle of the State.

By Mr. Howland:

Q. And the North Western.
A. And the North Western.

By Mr. Fowler:

Q. Have you used the Burlington coordinated rail and truck service between Omaha and Ottumwa, for example?
A. Yes, some.
Q. Now, I am assuming that on shipments to cities such as the Tri-Cities, Ottumwa, Cedar Rapids, Minneapolis and Des Moines, you have the services of a number of motor carriers available to you?
A. That is true.
Q. And, as I understand it, you are using most of them, as well as the Rock Island to those points?
A. Yes.

Mr. Fowler: That is all.
Exam. Carpenter: Redirect.
Mr. Nolan: I think that is all.
[fol. 1315] Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Nolan: Mr. Ball of Council Bluffs.

Gerald Ball was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you give us your name, Mr. Ball?
A. Gerald Ball.
Q. And where do you live?
A. 3444 Broadway, Council Bluffs.
Q. East or West Broadway?
A. It is West Broadway.

Q. You live pretty close to the river, then, don't you?
A. Pretty close.
Q. What is your occupation?
A. I manufacture hammers for hammer mills.
Q. Those are feed grinder hammer mills?
A. That is right.
Q. Used for grinding up feed?
A. Feed and flour.
Q. And how long have you been so engaged?
A. Two years.
Q. Where is your plant?
A. It is at that address.
Q. And you operate under your own name?
[fol. 1316] A. I operate under the name of Western Mills Supply.
Q. Western Mills Supply?
A. That is right.
Q. Is that a trade name or a corporation?
A. That is a trade name.
Q. Now, I assume you have inbound as well as outbound shipments?
A. That is right.
Q. Of less than truckload quantities?
A. Ten thousand pounds, ten to twelve.
Q. And where do you get your raw material that you process at your plant?
A. Erie, Pennsylvania.
Q. What is that, iron, metal?
A. Steel.
Q. Steel.
A. Cold rolled steel.
Q. Cold rolled steel. Does that come in in sheet form?
A. That is right, sheared to dimension.
Q. Is that already fabricated before you get it, and you assemble it in your plant?
A. I do the fabricating. It is in sheets of eight feet length, stripped.
Q. And I believe you said those come in ten thousand pound quantities?
A. Yes, ten to twelve thousand pounds.
[fol. 1317] Q. And those shipments come through the Chicago gateway, do they not?

A. That is right.

Q. And how do those shipments come in, by rail or truck?

A. I specify they come by motor freight.

Q. And what company have you been using to get these shipments?

A. Prucka and On-Time.

Q. And have you ever used the Rock Island Motor Transit Company?

A. No. I would have had I been able to.

Q. You could have used the Rock Island Motor Transit Company up before, prior to August 1, 1951. Had you made any investigation as to their service prior to that time?

A. No, I haven't.

Q. Now, what is your problem here, inbound shipments or outbound shipments?

A. Outbound.

Q. You are getting reasonably satisfactory service on your inbound shipments, is that right?

A. That is right.

Q. Via the Prucka Truck Line and the On-Time Truck Line?

A. That is right.

Q. Both are Omaha companies serving Omaha and Chicago, including Council Bluffs, is that right?

A. That is right.

Q. Now, what outbound shipments do you have?

[fol. 1318] A. I ship throughout the midwest, primarily eastbound to Des Moines, Cedar Rapids, Clinton, Davenport, northbound to Minneapolis, southbound to Kansas City, St. Joe.

Q. And have you had any outbound shipments into the Illinois territory?

A. Yes.

Q. The Tri-City area, and also into Illinois?

A. Mmmmhuh.

Q. What are the size of those shipments, those outbound shipments?

A. They run from one hundred fifty to fifteen hundred pounds.

Q. And those are the complete hammer mills?

A. Hammer parts.

Q. Hammer parts. What service have you been using on those outbound shipments?

A. Well, I use Watson, I use Darling.

By Mr. Bradsaw:

Q. What was that last?

A. Darling, Transamerican into Illinois, and the Rock Island wherever I can.

By Mr. Nolan:

Q. Have you used the Rock Island Motor into the Illinois territory?

A. I have tried, I have tried to, and into Ohio. I have gone as far as I could with them, and then by rail.

Q. Now, have you used the Rock Island Motor Transit's service into the Minnesota territory?

[fol. 1319] A. Yes, sir.

Q. And into the Kansas City territory?

A. Right.

Q. And what have you found with respect to the quality of that service?

A. I found it superior to any other. Our pick-up is exceptionally good. Freight to Watson is delayed sometimes as much as two days in our shop.

Q. That is Watson Bros. Truck Line of Omaha?

A. That is Watson Bros. Truck Line of Omaha. The Darling Truck Lines were very unsatisfactory. However, they were the only ones I could use into that vicinity in Nebraska, but I used them, but the service rendered by the Rock Island was so superior that we have called them in all instances where possible.

Q. And have you had any experience with any other truck lines in regard to the quality of their service?

A. That is right.

Q. What others?

A. Watson Bros.

Q. Have you ever had any experience with On-Time, not On-Time, but the Iowa-Nebraska?

A. No, sir.

Q. But it is Watson Bros. you have had the delay in pick-up, is that right?

A. That is right.

[fol. 1320] Q. Now, state whether or not the Rock Island Motor Transit Company maintains facilities, either at Council Bluffs or Omaha, where you have a direct contact with the agent, pick-up and delivery service, rate information at the end of the telephone, facilities for tracing claims and shipments.

A. All of that is available, and we have used it in instances where it is necessary, and the results have been very good, exceptional.

Q. I don't suppose you have a traffic department, do you?

A. No, sir.

Q. And is rate information in regard to shipping, source of shipping, is that invaluable in your business?

A. Well, it has its place, yes.

Q. You are a relatively small operation, are you not?

A. That is right.

Q. How many people do you have employed?

A. I have three.

Q. And necessarily you couldn't maintain a traffic department?

A. That is right.

Q. State whether or not the service which you have used by the Rock Island Motor Transit Company eastbound out of Omaha as to interstate shipments is necessary for the proper serving of your business?

A. I feel that it is. I feel that if we were to lose that service, it would be a considerable handicap so far as [fol. 1321] promptness is concerned and reliability.

Q. Do you know of any other transportation agency or company that provides the same facilities and service to you in your business at Council Bluffs that the Rock Island Motor Transit Company has been providing during the time you have operated the business there?

A. I can truthfully say I don't know of any other.

Q. And what would the effect be on your business if the service of the Rock Island Motor Transit Company was terminated or substantially reduced?

A. I feel that the shipments that we would normally route over those lines into those sections would be delayed at least on an average of one and possibly two days.

Q. Now, these shipments that you make out of your plant, are they more or less emergency shipments?

A. Quite often they are.

Q. And are they to replace a broken part in the hammer mill?

A. Broken and worn-out.

Q. And those hammer mills are used by customers rather than the dealer?

A. That is right.

Q. Now, you supply hammer heads for mills used by the farmer in grinding feed?

A. No.

Q. They are all industrial user of the larger mills?

A. Yes.

[fol. 1322] Mr. Nolan: Cross-examine.

Mr. Fowler: No cross-examination.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Howland: Mr. Seastedt.

PAUL E. SEASTEDT was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name so that all in the room can get it, please?

A. Paul E. Seastedt.

Q. Now, Mr. Seastedt, you live in Omaha, Nebraska?

A. Yes, sir.

Q. And your business is what?

A. Storage battery, build storage batteries.

Q. And are you an employee of some other company, or do you maintain your own business at Omaha?

A. No, I am Manager of the Grant Storage Battery Company at Omaha, Nebraska.

Q. And where are the headquarters of the Grant Storage Battery Company?

A. Minneapolis, Minnesota.

Q. Mr. Seastedt, in what territory does the Omaha plant, branch of the Grant Storage Battery Company sell and distribute its products?

A. Dealing in possibly the west one-fourth of Iowa and all of Nebraska.

[fol. 1323] Q. And I take it, then, that these batteries are sold and distributed to independent retailers and, perhaps, to some chain organizations in that territory?

A. Yes, sir.

Q. Have you had occasion to use the service of the Rock Island Motor Transit Company for your products shipped from Omaha, Nebraska?

A. For many years.

Q. Now, do you manufacture those at the Omaha plant, do you manufacture batteries there?

A. Completely.

Q. Yes. Now, how are your raw materials for the manufacture of your batteries, how are they delivered to your plant?

A. Truckloads.

Q. And from what territories do those shipments generally come?

A. Chicago, Kansas City, and carloads from the west coast.

Q. So that as far as the inbound business is concerned, it is both rail carload and truckload business?

A. Yes, sir.

Q. I take it that you are primarily interested here in the outbound service from your plant into the Iowa territory for the distribution of your manufactured products?

A. Iowa and Nebraska, yes, sir.

Q. All right. In what quantities do your shipment of batteries, in either number or weight, do they customarily move [fol. 1324] in this territory?

A. Two hundred fifty pounds minimum.

Q. And about what maximum, about how high?

A. Seven hundred fifty pounds.

Q. Seven hundred fifty pounds?

A. Right.

Q. What has been your experience with the service of the

Rock Island Motor Transit Company in handling shipments of this character for your company?

A. Very good.

Q. And do you know of any other comparable service you have to the points located on U. S. Highway 6 or on the connecting lines out of Des Moines, north, south and southeast?

A. We have some points that are served only by Rock Island, but we have some that are served by dual and additional carriers.

Q. About how many of these points—I will withdraw that.

Q. Now, have you had experience with respect to the handling of your small shipments, ranging from two hundred pounds up to seven hundred fifty pounds, by other carriers than the Rock Island Motor Transit Company?

A. Yes, sir.

Q. How has that been?

A. Well, we don't have too great a complaint. The only thing we are confronted with, our dealers tell us who to ship by.

[fol. 1325] Q. They specify the routing they want?

A. They send us the routing on it when their orders are sent in.

Q. And you usually honor that routing?

A. Entirely.

Q. Would the elimination or substantial reduction in the service of the Rock Island Motor Transit Company have any effect on your business if it ceased?

A. I am sure it would.

Q. And why is that true? Will you explain to the Examiner why that would be true?

A. The reason I say that in so far as ours is an existing possibility. There is a reason for them wanting to go Rock Island. As I mentioned, there are points they are only served by the Rock Island, and if the Rock Island is eliminated there is going to be no carrier left in many of these towns. We are going to be handicapped considerably because we have some peddle operation.

Q. Where is your competition?

A. Out of Omaha primarily.

Q. Out of Omaha, Nebraska. Have you used in the years past, or months past, prior to the placing of the restrictions on the Rock Island Motor Transit Company, have you used the services of the Rock Island in truckload quantities?

A. Oh, yes, yes, sir.

Q. And if an opportunity presented for you to use that [fol. 1326] service, would you avail yourself of that truckload quantity services again?

A. Most assuredly. Most assuredly.

Q. Now, do you have any—I will withdraw that.

Q. I would like to develop just a little more about the size of your business, and the quantity of the shipments that you have occasion to make. What sized plant do you have so far as personnel at Omaha?

A. We have approximately fifty people this time of the year. In our busy season, which is five months out of the year, we have one hundred people.

Q. And I take it that is a year-round operation but what might be referred to as sort of seasonal peaks?

A. Correct.

Mr. Howland: I think you may cross-examine.

Exam. Carpenter: Mr. Fowler.

Cross-examination.

By Mr. Fowler:

Q. How have you handled your volume shipments inbound since the restriction prohibiting the Rock Island Motor Transit taking care of it?

A. Other carriers.

Mr. Fowler: You have given that traffic to other carriers. That is all.

Exam. Carpenter: You are excused.

Mr. Howland: Mr. Seastedt, just one further question.

[fol. 1327] Redirect examination.

By Mr. Howland:

Q. Would there be any particular advantage in the operation of your business in being able to have this truckload

service of the Rock Island Motor Transit for inbound shipments in connection with the less than truckload service outbound?

A. I don't believe I understood the question.

Exam. Carpenter: Read the question.
Mr. Howland: Read it, please.

(Question read.)

A. Yes, sir.

By Mr. Howland:

Q. In what respect?

A. Well, the facts are we like to have competitive carriers operating, bring loads in, and we have found the Rock Island to be one of the most satisfactory carriers to handle our merchandise.

Q. That is true both inbound and outbound?

A. Correct.

Mr. Howland: That is all.
Exam. Carpenter: Recross.

Recross-examination.

By Mr. Fowler:

Q. As I understand your position on these volume shipments, since the restriction has been applicable you have tendered that traffic to other established motor carriers?

A. That is right.

[fol. 1328] Q. And that was true even before the restriction was applicable you did use the other carriers?

A. Oh, yes.

Q. On your inbound other than the Rock Island Motor Transit before that?

A. Yes, sir.

Q. And I believe you said, so far as you are concerned, you want competition between these carriers?

A. That is right.

Mr. Fowler: That is all.
Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Fowler: Mr. Examiner, please, just for the record may I state unfortunately I have to leave town for an engagement in Ohio. I have to leave the hearing until Monday morning. My associate, Mr. Bradshaw, will take over.

Exam. Carpenter: All right, Mr. Fowler.

HENRY H. WEIXLER was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you give us your name, place of residence and your occupation?

A. Henry H. Weixler, Vice President of the Atkins Transfer Company, Inc.

Q. You are located where?

[fol. 1329] A. Louisville.

Q. Louisville, Nebraska?

A. Yes, I am at Louisville.

Q. Louisville, Kentucky?

Exam. Carpenter: Louisville, Kentucky, or Louisville, Nebraska?

A. Louisville, Kentucky.

By Mr. Nolan:

Q. Your home is at Louisville, Kentucky?

A. That is right.

Q. And what is your position with the Atkins Transfer Company?

A. I am in charge of the Indianapolis and Chicago terminals, and at Louisville, in the operation of those three terminals.

Q. And what is your official position with the company?

A. Vice President.

Q. How long have you been associated with the company?

A. Twelve, starting my thirteenth year.

Q. Now, as I understand it, the Atkins Transfer Com-

pany is a common carrier of general commodities in interstate or foreign commerce by motor vehicle, is that right?

A. Yes, sir.

Q. And your company holds a certificate of public convenience and necessity for such operation from the Interstate Commerce Commission?

A. Yes, sir.

Q. Can you tell us off hand what your docket number is?

[fol. 1330] A. 74718.

Q. MC-74718?

A. Yes, sir.

Q. And I assume you have several Subs. on that?

A. Yes.

Q. Now, your main office is in Indianapolis?

A. Nashville.

Q. Nashville, Tennessee?

A. Nashville, Tennessee.

Q. And first, what is the personnel of your company in numbers? How many employees do you have?

A. I would say in the neighborhood of three hundred.

Q. And how many pieces of motor equipment are owned and operated by your company?

A. About one hundred eight.

Q. One hundred eight?

A. Yes.

Q. And describe generally the territory served by your company, and the principal points.

A. We serve south from Nashville to Chicago, and then we interline at Nashville, Chicago, Louisville and Indianapolis.

Q. And what are the main terminals?

Exam. Carpenter: Did you mean that, south from Nashville to Chicago?

A. From the north, from Nashville north to Chicago, but [fol. 1331] we handle a lot of interline freight out of Nashville coming from the south into Nashville.

Exam. Carpenter: O. K.

By Mr. Nolan:

Q. And what routes do you use from Nashville Tennessee, to Chicago?

A. From Nashville, U. S. 41, U. S. 31, 52 and 41.

Q. Those are alternate routes, or main operating routes?

A. Main operating routes.

Q. And what principal intermediate points do you serve between Nashville and Chicago, Illinois, on these operating routes?

A. Well, we serve on U. S. 31—52, we serve Indianapolis. We have got a terminal there, and Lafayette is an intermediate point.

Q. Lafayette, Indiana?

A. Lafayette, Indiana.

Q. All right.

A. And Gary, Indiana, is an intermediate point.

Q. Now, how about on your west route?

A. We don't have any intermediate points on the west route.

Q. That is your overhead service from Nashville to Chicago?

A. That is right, yes.

Q. Now, your company handles all general commodities, I assume?

A. Yes.

Q. With the few specific exceptions?

A. Yes.

[fol. 1332] Q. Explosives, and I suppose goods contaminating to other lading?

A. That is right.

Q. Now, state whether or not you operate a daily scheduled service between Nashville and Chicago and these intermediate points on the east route.

A. I beg your pardon.

Exam. Carpenter: Read the question, please.

Mr. Nolan: Read the question, please.

(Question read.)

A. Yes, between Nashville and Chicago by the way of Indianapolis. We don't have any rights to serve Louisville out of Nashville.

Q. But do you conduct a local service between Louisville, Kentucky, and Chicago, Illinois?

A. Oh, yes.

Q. But you are restricted between Nashville and Louisville?

A. And Louisville.

Q. And do you maintain a scheduled daily service between Nashville and Chicago on the overhead operation on the west route?

A. Yes.

Q. Now, what type of traffic moves into Nashville and interlines with your company for Chicago destination or beyond?

A. Well, general-y freight, a lot of cotton piece goods. You say beyond Nashville and coming into Nashville?

Q. I say what freight comes into Nashville and is interlined with your company for Chicago destination or beyond Chicago.

[fol. 1333]

A. Yes, we handle a lot of tires coming into Nashville from Birmingham for Rock Island, Illinois, while the Rock Island has been receiving it, the only carrier that would take it. We handle cotton piece goods. Shoes, we handle shoes out of Tullahoma, Tennessee, and Coca Cola bottles out of Chattanooga.

Q. That comes through the Nashville gateway and is interlined with your company?

A. Yes, sir.

Q. State whether or not you have a regular flow of traffic, either originating at Nashville, or turned over to your company at Nashville, from other carriers in the southern territory; also from Louisville, Kentucky, and Indianapolis, Indiana, which you take to Chicago for interline with carriers serving the Iowa territory?

A. Yes, sir.

Q. And is there a daily flow of such traffic?

A. Yes, sir.

Q. And is that volume traffic or less than truckload?

A. Some of it i. truckload and some of it is less than truckload.

Q. And what carrier have you been using in your interline from Chicago westbound into the Iowa territory?

A. Well, lately we have been using Rock Island. We had difficulty getting rid of a lot of Iowa points, and I went to

[fol. 1334]

Chicago in order to clear that situation up, and

we made an agreement with the Rock Island Motor Transit, they would handle everything we give them, and they have been doing that.

Q. And for how long have you been interlining with the Rock Island Motor Transit Company?

A. About two years.

Q. Prior to that did you have any difficulty in getting rid of freight that you brought to Chicago, either originating on your line or turned over to your line by some other southern carriers?

A. Yes, we always have trouble getting rid of Iowa.

Q. And how about since you have made a hook-up with the Rock Island Motor Transit Company?

A. Well, they solved that problem.

Q. And has that service been satisfactory?

A. Yes, sir.

Q. Now, I don't know whether you are familiar with the Iowa territory or not. Have you been out in here before?

A. No.

Q. This is your first trip into Iowa?

A. Yes, sir.

Q. Are you familiar with the number of points and particularly the smaller towns served by the Rock Island Motor Transit Company in the midwest territory here?

A. Not too much. I was in Chicago a couple of weeks ago [fol. 1335] and I copied down a list of points we did have trouble getting rid of.

Q. And you have those points now for the record?

A. Yes, I have those.

Q. Will you now produce, tell us what those points were?

A. These were taken from freight bills and records at Chicago.

Q. Of your company?

A. Yes, sir. Wilton, Kalona.

Q. That is Wilton, Wilton Junction or Wilton. That is the same town.

A. I assume it is.

Q. All right, what other towns?

A. Kalona, Wellman, West Liberty, Grinnell, Audubon, Griswold and Harlan.

Q. And you did have traffic moving into those points, as

I understand it, and you had difficulty getting delivery to those points until you made your hook-up with the Rock Island Motor Transit Company?

A. That is right.

Q. And how have you found the service to those points and other points in Iowa since you made your hook-up with the Rock Island Motor Transit Company?

A. We don't have any trouble any more.

Q. Now, what is the fact as to whether or not some of the traffic which originates in the southern states and handled by your company is what you might call low revenue traffic?

[fol. 1336] A. May I give you a good example of. We move tires out of Birmingham, Alabama, which makes a three line haul, and the revenue is not good for any of the carriers involved, particularly the delivering carrier, and nobody would take the tires.

Q. Where, at Chicago?

A. At Chicago, and so the Rock Island has been taking those tires and delivering them for us.

Q. The Rock Island Motor Transit Company did take that?

A. Did take that, yes.

Q. Are you familiar with, the obligations of a common carrier, they must accept all freight tendered them?

A. That is my understanding.

Q. And you say there were carriers operating out of Chicago into the Iowa territory who refused to handle interline traffic?

A. That is right.

Q. And do you know why they refused to handle that?

A. Yes, on account of the low revenue.

Q. Now, other than the fact that your company was required to handle that traffic coming from Alabama to the Nashville gateway, what other reason did you have for handling that traffic and bringing it to Chicago for destination in Iowa?

A. Well, we are like all southern carriers. There is not a volume of freight moving out of the south like there is from the north, so in order to get our equipment back with some revenue on it, we take loads like that. We have to.

[fol. 1337] Q. In other words your light movement is from south to north, is that right?

A. That is right.

Q. And you will take low revenue freight in order to give you some revenue back to Chicago, is that correct?

A. That is right. We handle a lot of shoes coming out of Nashville, going into Iowa points, a tremendous amount of them, and we work pretty nice with the Rock Island on those shoes, are lighter, susceptible to theft, and a lot of carriers don't want them.

Q. Shoes are valuable but they call for low revenue for the carrier?

A. Possibly.

Q. Now, do you understand also that the Rock Island Motor Transit Company serves between Des Moines and Kansas City, and Des Moines and the Twin Cities, Minneapolis and St. Paul?

A. I wasn't too familiar with that, no.

Q. Have you used the service of the Rock Island Motor Transit Company into those points?

A. I think we have used them into Minneapolis.

Q. And their operations from Chicago would be via the Tri-Cities, Des Moines, and then north to Minneapolis? Are you familiar with that routing?

A. I am not familiar with that, no.

Q. Now, do you know of any other carrier than the Rock [fol. 1338] Island Motor Transit Company, who is either able, or able and willing, to handle this traffic which you have been turning over to the Rock Island for Iowa destinations?

A. No, I don't.

Q. Now, you say you have been connected with the motor carrier business for twelve years, going on thirteen now?

A. That is right.

Q. And in your connections with the Rock Island Motor Transit Company have you found anything in its operations that showed any rail domination or any reason why motor carriers shouldn't interline or work with the Rock Island?

A. No, I don't.

Q. Now, is your company a member of the American

Trucking Association and other associations of the industry?

A. Yes, sir.

Q. And your company participates in various motor carrier rate bureaus?

A. Yes, sir.

Q. And does the traffic which you originate in the south, carried by your company from Nashville to Chicago, and turned over to the Rock Island Motor Transit Company, does that move on through——

A. Through rates.

Q. And each one would take its portion of the through rate?

A. We protect the through rate, that is right.

[fol. 1339] Q. Have you had experience in Chicago where other carriers have demanded a local rate from Chicago rather than participate in the local rate where there is a three line haul?

A. I can't say as to that.

Q. They don't want it?

A. They don't want it, no.

Q. Now, I assume your shoes and things of that character move in less than truckload quantities?

A. Yes.

Q. How about tires and things of that character?

A. Tires usually move in truckload.

Q. Truckloads?

A. There is some L. T. L.

Q. And state whether or not for the proper handling of business originating or interlined with your company into the Iowa territory, it is reasonably necessary for the continuation of the service of the Rock Island Motor Transit Company into the Iowa territory.

A. I feel like it is.

Q. And state whether or not in your opinion from a motor carrier standpoint it is necessary for a carrier to have both volume shipments as well as the small shipments in order to maintain a service.

A. That is absolutely necessary.

Q. Now, from your experience can a truck motor carrier, [fol. 1340] common motor carrier perform a local service if it doesn't have the overhead freight?

A. No, it couldn't.

Q. Do you know of any carrier of any size that is performing a local service without some overhead freight in the same territory?

A. No.

Q. And if the rights of the Rock Island Motor Transit Company were restored to what they were before any restrictions or limitations, would your company continue to use its services out of Chicago into and through the Iowa territory for both less than truckload shipments and truckload shipments?

A. Yes, sir.

Q. Do you know of any other trucking company, serving Chicago and the Iowa territory now served by the Rock Island Motor Transit Company, that gives or is willing to give the same type and character of service that the Rock Island has given your company?

A. No, I don't.

Mr. Nolan: You may cross-examine.

Exam. Carpenter: Mr. Bradshaw.

Cross-examination.

By Mr. Bradshaw:

Q. The points of Wilton, Kalona, Wellman, West Liberty, Grinnell, Audubon, Griswold and Harlan are the points that were troubling you when you went to Chicago?

[fol. 1341] A. It was troubling us and Doolittle called me on the 'phone and it is my responsibility whether the applicant makes money.

Q. Those are small. About what type of shipments go in there?

A. Principally shoes, tires and cotton piece goods.

Q. What is the size of the tires?

A. Some tires run in truckloads.

Q. You mean to Kalona a truckload of tires?

A. I imagine. I wouldn't say that for sure.

Q. How many pounds?

A. You can get from twelve to eighteen thousand pounds of tires on a trailer.

Q. Now who is handling that for you into Kalona?

A. I don't know who is handling that now.

Q. You are getting them in there, though?

A. No, not truckloads.

Q. Well, I asked you a moment ago whether truckloads of tires went into those towns, and you said they did.

A. They had been a truckload of tires every month.

Q. How did they get in there?

A. We have given them to the Rock Island. We haven't handled those tires for quite a while.

Q. Are you handling them now?

A. No.

Q. Well, shipments under five thousand pounds are going in there, is that right?

[fol. 1342] A. I assume we are still giving them shoes and enough under five thousand pounds.

Q. Do you have shipments over five thousand pounds at the present time?

A. I doubt it.

Q. That you are interlining into this Iowa territory, of course?

A. I doubt it unless it would be whisky, and they wouldn't be going into those points.

Q. I wouldn't think so. Then your low revenue problem is mainly on shoes, is that right?

A. Shoes and tires.

Q. And all less than truckloads?

A. Yes, now it would be.

Mr. Bradshaw: That is all.

Redirect examination.

By Mr. Nolan:

Q. Mr. Weixler, is it fair to say the termination of or a substantial curtailment of the service of the Rock Island Motor Transit Company out of Chicago into and through the Iowa territory would stop, or severely stagnate, the flow of traffic from the southern states that you interline into Chicago?

A. Yes.

Q. It would back-up that freight? It would have that far-reaching effect, isn't that true?

A. Yes.

[fol. 1343] Q. Clear down into Alabama?

A. We couldn't get any tires any more. We could not get rid of them.

Mr. Nolan: That is all.

Exam. Carpenter: Recross.

Mr. Bradshaw: Just a moment.

Exam. Carpenter: Just a minute.

A. Oh.

Recross-examination.

By Mr. Bradshaw:

Q. Who is handling those tires from Birmingham, Alabama, for the Iowa points at the present time?

A. I don't have any idea who is handling them.

Q. Do you know they are still coming in or not?

A. I would say they are.

Q. In this agreement you have with the Rock Island Motor Transit Company, that was on everything but the tires, is that right?

A. Well, they handle tires for me. We pro rate them.

Q. Well, now, you can get tires into Des Moines, can't you, if you want to?

A. If there was any moving in here I guess we could.

Q. And how about Omaha?

A. I am not familiar with that.

Q. In other words, your only problem is getting truckload lots of tires into these small towns, isn't it?

A. Well, that and Rock Island.

[fol. 1344] Q. Rock Island, Illinois?

A. Mmmmhuh.

Q. Couldn't you deliver them in there?

A. We didn't. We are not authorized.

By Exam. Carpenter:

Q. Well, are they moving at the present time?

A. I don't know. I imagine they are. We have to turn them down. That is a low revenue item, and the average carrier just don't want them.

Q. Why do you want them?

A. We have to have them coming out of the south or run empty.

Q. Didn't you say you turned them down?

A. We had to. We have no way to get rid of them.

Q. Out of Chicago you mean?

A. That is right.

By Mr. Bradshaw:

Q. Well, how many truckloads of tires did you have into Kalona in the last two years?

A. I couldn't tell you that.

Q. How many into Wellman?

A. I couldn't tell you that.

Q. West Liberty?

A. I never brought the bills with me.

Q. Any of those towns?

A. I could not actually say.

Q. Do you ever have a truckload of tires?

[fol. 1345] A. Yes. When I go to Chicago they bring that complaint to me. It is my problem to solve it.

Mr. Bradshaw: That is all.

Redirect examination.

By Mr. Nolan:

Q. Now, Mr. Weixler, irrespective of whether the truckload of tires goes to Wellman, Kalona, Podunk or Des Moines, or one of the other major cities in Iowa, as I understand it, the other trucking companies will not handle those tires because of the low revenue in the rates, isn't that right?

A. That is right.

Q. What is the fact as to whether you can get plenty of service out of Chicago in truckload quantities where there is a high revenue freight, or do you have any high revenue freight coming out of the south?

A. Yes, we have high revenue freight.

Q. From the south?

A. Some, yes.

Q. Do you have any trouble getting rid of that where there is a good revenue?

A. No.

Q. The other carriers are willing to grab that, are they not?

A. That is right.

Q. But it is on this so-called low revenue freight where there is a participation, a three line haul on a through rate, where you are having your trouble?

[fol. 1346] A. Yes.

By Exam. Carpenter:

Q. Would you be able to get the tires back if you got rid of them, to Chicago?

A. I hope I can. That is my problem.

By Mr. Nolan:

Q. Then, when you say you had to give up the transportation of tires out of the south, it was because you could not get rid of them in Chicago for points along the Rock Island Motor Transit Company's system, whether it is Kalona, Podunk, or Des Moines, isn't that right?

A. Yes.

Mr. Nolan: That is all.

Recross-examination.

By Mr. Bradshaw:

Q. Just what did you give up in the way of tire shipments?

A. I gave up those tires. I had to. I couldn't get rid of them.

Q. Which tires are you talking about? You are still handling the less than truckload lots?

A. I told you tires usually move in truckloads.

Q. And you can still handle them into Des Moines?

A. I don't handle any tires.

Q. And if you wanted to get them into Des Moines you could from the other points?

Exam. Carpenter: I don't believe he said that.

A. I didn't say that.

[fol. 1347] Exam. Carpenter: Mr. Bradshaw?

Mr. Bradshaw: All right.

Redirect examination.

By Mr. Nolan:

Q. To clear that up, Mr. Bradshaw, as I understood your testimony, Mr. Weixler, you do not handle any tires at the present time from the south into Chicago?

A. No.

Q. Whether it is for the Tri-Cities, Rock Island, Davenport, or Des Moines, or any point west of Chicago?

A. I don't handle them at all.

Q. Because you can't get rid of them at Chicago?

A. That is right.

Q. But you could get rid of them when the Rock Island Motor Transit Company was operating?

A. Yes, they worked with me on them.

Q. And if the Rock Island Motor Transit Company was authorized to handle those tires again, you would re-establish that service you originally had?

A. I hope I can.

Q. You mean you would attempt to?

A. I would attempt to. I want to.

Q. When you say you have an agreement with the Rock Island Motor Transit Company, was that merely that you would recognize your participation in your through rates and comply with your obligations as common carriers?

[fol. 1348] A. That is right.

Mr. Nolan: That is all.

Recross-examination.

By Mr. Bradshaw:

Q. How many truckloads of tires did you have into Iowa during the last six months the Rock Island Motor Transit was able to carry them?

A. I could not answer that.
Q. Did you have any then?
A. Yes, we had some.

Mr. Bradshaw: That is all.
Mr. Nolan: That is all.
Exam. Carpenter: You are excused.

(Witness excused.)

Exam. Carpenter: Five minute recess.

(Short recess.)

Mr. Nolan: Mr. Crooks of Kansas City.

David P. Crooks was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Give us your name, place of residence and occupation, Mr. Crooks.
A. David P. Crooks, Crooks Terminal Warehouse, 1104 Union Avenue, Kansas City.
Q. Briefly tell us the business of your company there in Kansas City.
[fol. 1349] A. Well, we are in the storage and distribution business. That is about all it amounts to. We actually are not a shipper. We are agents of the shipper.
Q. And what national accounts does your agency handle in Kansas City?
A. General Foods, Hershey Chocolate, Lipton's Tea, R. J. Reynolds.
Q. R. J. Reynolds Tobacco Company.
A. Brach.
Q. Brach what?
A. Brach Candy. There is the sugar companies. We handle the Great Western, Holly, C. & H.

By Mr. Bradshaw:

Q. Are these all candy companies?

A. No, they are sugar companies.

By Mr. Nolan:

Q. Is it fair to say that you warehouse the products of these national concerns for distribution in the midwest territory?

A. Yes, that is right.

Q. And that includes Iowa, does it not?

A. To a certain extent because where a man has his warehouse located, some accounts, being small, don't. They cover a wider area out of a warehouse, and the big account will have a stock in Chicago or St. Louis, and they might cover this area from these other points.

Q. Do you have occasion to ship out of your warehouse [fol. 1350] at Kansas City for these national accounts to points in Iowa?

A. Sometimes we do.

Q. And have you used the service of the Rock Island Motor Transit Company to these Iowa points?

A. Yes.

Q. And about how long have you been using that service?

A. I imagine several years, as long as it has been existing. We have so many customers, and I am not the Traffic Manager, myself. We have three hundred accounts, and there is no way to tell. There is no record kept, but we have been using them.

Q. What I am getting at, there is traffic flowing out of your town across Iowa east and west that are served by the Rock Island Motor Transit Company, is that right?

A. That is right.

Q. And is there a regular, year-around flow of such traffic?

A. Yes, sir.

Q. And what sized shipments ordinarily will come out of the warehouse in Kansas City for Iowa destinations?

A. Well, being in the warehousing business, it is mostly small shipments. I could not say exactly how large they are. Of course, there are times when a man will run out of stock even in a little warehouse in this area, and you have to ship a large quantity of merchandise. I don't know of any but it could be possible.

Q. So far as you know the services of the Rock Island [fol. 1351] Motor Transit Company, for those small shipments into the Iowa territory, have been satisfactory?

A. Yes, they have.

Q. And do you know of any other service available out of Kansas City to these smaller points along U. S. Highway No. 6, other than the Rock Island Motor Transit Company?

A. We usually route it the most expeditious way, and I imagine to some of these points the Rock Island Motor Transit Company has been the only method we have been able to ship this merchandise, to my knowledge.

Q. Well, the general over-all policy of your company is to ship the most expeditious way, and you have used the Rock Island Motor Transit Company for such shipments?

A. That is right.

Q. And do you have the routing of those shipments for these national concerns that warehouse with you?

A. Most generally we have a routing given, but there are some occasions arise when it is not covered, the shipment is not covered in the routing given, and we have to use our own judgment.

Q. That is what I mean, you have the control of the shipments?

A. At all times.

Q. To many of the points, is that right?

A. That is right.

Q. Now, these shipments that move into your warehouse [fol. 1352] and out again, are some of those shipments already routed as time goes along, as the needs of the customers arise?

A. I would say about ninety-five per cent of our accounts have a routing given, and they are also pre-routed, but when it gets up as far as Iowa, there is not too much moving into Iowa. There is a substantial amount, but most of it is in Missouri, Kansas and Oklahoma, and the routing given sometimes doesn't cover this territory.

Q. And then it is up to you to do the routing of the shipments into the Iowa territory?

A. That is right.

Q. And if the service of the Rock Island Motor Transit

Company ultimately continued, will you have occasion to use such service out of Kansas City into the Iowa territory?

A. That is right.

Mr. Nolan: That is all. You may cross-examine.

Exam. Carpenter: Mr. Bradshaw.

Cross-examination.

By Mr. Bradshaw:

Q. As I understand your testimony, Mr. Crooks, you use the Rock Island Motor Transit almost exclusively on this Iowa territory.

A. I wouldn't say that. Watson Bros. gets quite a substantial amount in Iowa, and, of course, like I say, we have so many accounts in our warehouse. We have about eight different shipping clerks.

[fol. 1353] Q. You do use other carriers into the Iowa territory?

A. Yes.

Q. Other than the Rock Island Motor Transit?

A. Oh, certainly.

Q. And have you familiarized yourself as to whether or not there are any specific points that other carriers can not serve on these shipments?

A. I believe there are some points the Rock Island Lines——

Q. Can you name any specific point?

A. No, I can't.

Q. You referred to small shipments coming into Iowa. What are the size of those shipments?

A. Well, I couldn't say off hand. I don't know of any large shipments that might have been.

Q. In pounds, approximately?

A. I couldn't say off hand.

Q. One hundred, two thousand?

A. There might be that much, I don't know.

Q. Somewhere between one hundred and two thousand?

A. Yes. We ship over two hundred thousand pounds a day from the warehouse, and for me to know all of them——

Q. The two hundred thousand doesn't come into Iowa?

A. Oh, no.

Q. That goes into different——

A. Other localities.

[fol. 1354] Q. Your other territory. A very, very small portion comes into Iowa?

A. That is right.

Q. Actually you are not too familiar with what carriers operate?

A. No, I am not. Most generally we leave it up to the shipping clerk, and, like I say, most of the shipments are prerouted, and he uses his discretion. I understand our shipping clerk has at times to rely on the Rock Island.

Q. Your main purpose in being here is, you like the Rock Island Motor Transit's service?

A. We like it for our customers. When they ask for our advice we have to give them the best answer. That is a part of our service, is advising on shipping.

Q. What I am getting at, your purpose in being in here, you want to keep this service, but you are not saying there isn't other service, is that right?

A. I think there are certain points, I am not sure, that are served by the Rock Island, so far as maybe there is a roundabout way of getting there, but out of Kansas City we have found certain points the Rock Island served best. Maybe coming from the north someone else could.

Mr. Bradshaw: That is all.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Nolan:

Q. Mr. Witness, Mr. Crooks, what is the fact as to whether [fol. 1355] or not warehousing is done at points where there is flexible outbound service to all points to which the national concerns have distribution? Is that one of the purposes of the warehousing at a center where they do have flexible service?

A. That is right. That is true.

Q. Now, I assume that is one reason the national concerns warehouse in Kansas City because of the service they have to the territory from Kansas City?

A. Kansas City is recognized as one of the best distribution centers in this part of the country.

Q. And that is by truck and rail service to these various points?

A. That is right.

Mr. Nolan: That is all.

Exam. Carpenter: Recross? You are excused.

(Witness excused.)

Mr. Nolan: Mr. O'Connor.

J. A. O'Connor was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you state your name, place of residence and occupation?

A. J. A. O'Connor, Kansas City, Missouri, Regional Traffic Manager, Montgomery Wards.

[fol. 1356] Q. And when you say you are Regional Traffic Manager for Montgomery Ward & Company, what territory does that embrace, and what are your duties?

A. Well, for the purpose of this hearing it embraces as to twenty-three stores in Nebraska and Iowa, and seven units.

Q. Now, how long have you been associated wtih Montgomery Ward & Company?

A. Nine years.

Q. And did you have experience in traffic work before that?

A. Yes, I was with Standard Brands in Chicago and Kansas City before that.

Q. And how many years' experience have you had altogether in traffic?

A. Over fifteen.

Q. Now, you say, so far as this hearing is concerned, you have twenty-three stores which you supervise the flow of traffic to and from, I assume?

A. From Kansas City.

Q. From Kansas City, and what are the other points?

A. We have catalogue units, that is merely a desk where people come in and order out of the catalogue, and we ship to them.

Q. How many places do you have?

A. We have seven of those in this territory.

Q. Involved in this proceeding?

A. Involved here.

[fol. 1357] Q. Now, as I understand it, Montgomery Ward & Company has a regional office and a regional supply station for its stores located in Kansas City, is that right?

A. We have a mail order house in Kansas City.

Q. A mail order house?

A. That is right.

Q. And how about supplying your retail stores out of Kansas City? Is that done?

A. That is done, too, not from the mail order house primarily, but some of it is done from the mail order house.

Q. Now, does your work encompass the supervision of the stores as well as the mail order house?

A. That is correct.

Q. You supervise all traffic out of the Kansas City Offices of Montgomery Ward & Company whether it is for retail outlets or filling mail orders, is that correct?

A. That is correct.

Q. And do you supply all lines handled by Montgomery Ward & Company, including the merchandise, dry goods, farm equipment?

A. Everything.

Q. Everything handled by Montgomery Ward & Company, is that correct?

A. That is correct.

Q. And is Kansas City one of the regional offices of Montgomery Ward & Company?

[fol. 1358] A. Kansas City is also a regional office.

Q. Now, what points are served out of your Kansas City office?

A. What points?

Q. Yes.

A. So far as this hearing is concerned?

Q. That is right.

A. Well, we have along Highway 6, we have Atlantic, Des Moines, Newton, Iowa City. Then below that we have Muscatine and Washington, Iowa.

Q. Now, those are to retail outlets, retail stores?

A. Those are retail stores.

Q. And do you also have mail orders come in from those stores?

A. Yes. Each store maintains a catalogue order unit within the store.

Q. In other words, if a store doesn't stock that particular piece of merchandise, it can be ordered from you?

A. That is correct. It can be ordered from the unit.

Q. Does that go direct to the customer, or go to the store and the customer picks it up from the store?

A. As the customer wishes. If he wants to pick it up at the unit, we deliver it to the unit, or we deliver it direct to his home.

Q. That is whether he pays in advance, or pays when he gets it?

A. That is in reference to his credit.

Q. Now, where are these mail order stations located?

[fol. 1359] A. For the purpose of this hearing, there is no strictly mail order unit involved.

Q. But may you receive orders from almost any point along Highway No. 6 between Davenport and Omaha?

A. Oh, yes.

Q. Your company still publishes and distributes catalogues, does it not?

A. Yes. That would go directly to the mail order house to be filled and shipped to them.

Q. That would come out of Kansas City, assuming now I live in Iowa City, or assuming I live out west of Des Moines in some small town between here and Atlantic, and I wanted to order an order of merchandise from Montgomery Ward & Company out of the catalogue, would that order be filled in Kansas City?

A. In the greater number of cases, yes, unless it was such, if it was shipped direct from the source to you. We have some of that, but the greater bulk of it would come from Kansas City where we stock it.

Q. Suppose I want to order a bicycle and I live here at Wiota, Iowa. Do you know where Wiota, Iowa, is?

A. No, I am afraid not.

Q. It is a little town east of Atlantic. That would be one

of the standard bicycles manufactured by Montgomery Ward & Company. Would that come to me from Kansas City?

A. It would.

[fol. 1360] Q. That would come direct?

A. Yes, if that is what you want.

Q. If I sent it in C. O. D.?

A. Or send a check with it, or send a money order.

Q. That would come direct to me at Wiota, that is correct?

A. Yes, out of Kansas City.

Q. Is there much of that traffic moving direct to the customer out of the Kansas City mail order house?

A. Yes, there is considerable in this area.

Q. Now, state whether or not your company has been using the service of the Rock Island Motor Transit Company out of Kansas City into the Iowa territory.

A. Yes, we have.

Q. You have been using that service since you have been with Montgomery Ward & Company at Kansas City?

A. Yes, I have.

Q. And does that include, does that include volume shipments as well as small shipments?

A. Well, our shipments to these points will run from about one hundred fifty pounds to approximately six thousand. In addition to having the mail order house in Kansas City we have a rug pool. We do all of the rug cutting for the eastern part of the United States, and since the inception of that rug cutting we have volume shipments to some of these points, Iowa City, for instance.

[fol. 1361] Q. That would be a truckload quantity?

A. Not over six thousand pounds.

Q. Then the transportation of volume shipments, it is less than six thousand pounds?

A. Yes, L. T. L. shipments.

Q. State whether or not the service which has been provided your company by the Rock Island Motor Transit Company has been satisfactory or otherwise.

A. It has been satisfactory.

Q. And state whether or not you know of any transportation agency which serves all of the points between Omaha and Davenport on U. S. Highway No. 6 and off-route points such as Muscatine, Washington, Iowa, and Ottumwa, with the regu-

larity of service that the Rock Island Motor Transit Company has been giving you.

A. None can give us the direct service to Muscatine, Washington, Newton and Iowa City that the Rock Island has been giving us.

Q. And have you made inquiry and investigation to see whether or not you could get such service?

A. We have tried everyone on it, interline.

Q. And state what the effect would be upon your company's business if the Rock Island Motor Transit Company was required to cease operating or substantially curtail its operations.

A. Well, we would be seriously handicapped at the points I mentioned because we must promise the customer some kind [fol. 1362] of a schedule. He comes in and buys merchandise. We must give him some idea when he can expect to get it, and we try to maintain it on a close schedule. These points I mentioned we consider a two days' service from Kansas City. If the service goes beyond two days, we get a dissatisfied customer, and they go elsewhere to make their purchases.

Q. They go to Sears?

A. Sears would have the same problem we have at Kansas City.

Q. They have the same regional setup you have?

A. Yes, they do.

Q. And their problem would be about the same?

A. It would be identical.

Q. Now, these shipments or mail orders direct to the consumer, of course, they may go anywhere, isn't that it?

A. That is correct.

Q. But you say these unit shipments, those are to your stores located in the points you enumerated?

A. That is where we police the schedule.

Q. Has your company had any experience in regard to shipments of over five thousand pounds since the authority of the Rock Island Motor Transit Company was limited to that?

A. Yes, we have had some shipments over that.

Q. And what, how have you handled those shipments?

A. Well, we have interlined with other carriers, Watson, Bruce, whoever had, and rail carriers, too, in some cases.

[fol. 1363] Q. And was that service as satisfactory as a direct service by the Rock Island Motor Transit?

A. No, it is not as fast.

Q. How about satisfactory? A. Well, it is satisfactory. You mean from the claim standpoint?

Q. No, I am talking about satisfying your customers.

A. No, it is not as satisfactory.

Q. I believe you said you know of no carrier that provides the same service to points east of Des Moines on U. S. Highway No. 6 out of Kansas City that the Rock Island Motor Transit Company does?

A. To the points I mentioned, yes.

Q. And your shipments are from one hundred pounds up to six thousand?

A. That is right.

Q. Now, Mr. O'Connor, do you have a traffic association in Kansas City?

A. A traffic association?

Q. Is there a traffic association in Kansas City?

A. There is a traffic club there, and different traffic bureaus.

Q. Do you have a traffic association, an association of different traffic representatives for which you have a director of that bureau?

[fol. 1364] A. Well, not exactly. You see we have traffic clubs. We have the transportation club, the traffic club, the industrial traffic managers club, and we have various rate bureaus who perform traffic work for concerns without traffic departments. Is that what you are getting at?

Q. Yes. Is there any organization, for instance, a traffic association or department of the Chamber of Commerce that handles traffic problems for organizations that do not have their own traffic department, or where they have their own traffic department, they may work with them?

A. Yes, there are several in Kansas City.

Q. You have certain of those organizations?

A. That is right.

Q. You don't have one that represents all of the various interests?

A. No, not to my knowledge. I do not believe they are organized that way.

Q. You are acquainted with a man by the name of Mr. Tedrow?

A. Mr. Tedrow is deceased. He was the Transportation Manager of the Chamber of Commerce.

Q. He has a successor?

A. He has a successor now.

Q. What is his name?

A. It escapes me. He has only been there a short time.

Q. Are you a member of various traffic organizations there?

[fol. 1365] A. I am a member of the traffic club.

Q. And participate in its work, too?

A. Oh, yes.

Q. And from your acquaintance with traffic out of Kansas City and the other organizations, would you say that they have the same traffic problem, transportation problem, that your company has?

Mr. Bradshaw: I object to that as hearsay, irrelevant.

Mr. Nolan: That is all.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Bradshaw:

Q. Do you have any other shipments over five thousand pounds other than the shipments out of the rug pool?

A. No. They have to be rugs to make it.

Q. And I think you said they go to Iowa City and Muscatine?

A. Iowa City and Newton would be the principal.

Q. Those are the only two?

A. That get into the six thousand pound class.

Q. That get into that classification. What other services, transportation services, do you have between Iowa City and Kansas City?

A. And Kansas City. Well, we can use Watsons or Bruce, but it involves an interline, and we have tried that. We have also tried express service, and it has been very unsatisfactory.

Q. And how about Newton? You have several carriers [fol. 1366] going through Newton?

A. That is right, but it involves an interline at Des Moines or at Omaha.

Q. Do you have some rails that go into both of those cities?

A. We have rail service to both cities.

Q. And you have carrier service, then, and rail service to both of those cities on both types of shipments?

A. That is correct.

Q. That is under five thousand and over five thousand, other than the Rock Island Motor Transit?

A. That is right.

Q. Now, a lot of this, those delivered stuff that Mr. Nolan was talking about, that goes by mail, doesn't it?

A. Some of it goes by mail. The parcel post has some very strict limitations since the first of the year.

Q. I understand, but a lot in the past has gone by mail?

A. A lot has gone by mail.

Q. Now, you have plenty of carriers between Des Moines and Kansas City?

A. As far as Des Moines proper is concerned, the service is very satisfactory.

Mr. Bradshaw: I believe that is all.

Exam. Carpenter: Redirect.

Mr. Nolan: I believe that is all.

Exam. Carpenter: You are excused.

[fol. 1367] (Witness excused.)

Mr. Nolan: Mr. Kilmer.

B. J. KILMER was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you give us your name and place of residence?

A. B. J. Kilmer, 906 Grand Avenue, Kansas City, Missouri.

Q. And what is your occupation, Mr. Kilmer?

A. Assistant Manager of Traffic and Distribution, Sinclair Refining Company. That is the Western District.

Q. How long have you lived in Kansas City?

A. Thirty-six years.

Q. Are you a native of Kansas City?

A. No, sir.

Q. Did you ever live in Iowa?

A. No, Kansas, Kansas and Missouri.

Q. Now, tell us what products your company handles, or what you handle in your traffic department in the Sinclair Refining Company.

A. We handle the marketing products for the Western District, beginning with the Mississippi River, west to the Rocky Mountain States, and south to the Arkansas-Oklahoma border.

Q. And what embraces the State of Iowa?

A. It does.

[fol. 1368] Q. Minnesota?

A. And, of course, we have our supplies for these stations, pumps, tanks, stationery, air compressors, signs, and many other items.

Q. And are those supplies, etc., all warehoused in Kansas City and shipped into this territory?

A. All of the supplies for the stations are handled in Kansas City, that is other than the marketing product.

Q. That is other than gasoline and oil?

A. And we have insecticides, and anti-freeze, and many other items that we market.

Q. You say those aren't warehoused in Kansas City?

A. Not for Iowa destinations.

Q. Then, as I understand your testimony, you handle out of Kansas City for the Iowa territory filling stations supplies and equipment, is that correct?

A. That is correct.

Q. Now, are you familiar with the service of the Rock Island Motor Transit Company involved in this case?

A. I am.

Q. And state whether or not your company has been using the service of the Rock Island Motor Transit Company out of Kansas City for these station supplies and equipment during the past several years.

A. We have.

[fol. 1369] Q. And what has been the nature of that service as satisfactory or otherwise?

A. It is satisfactory.

Q. Now, tell us to what points, particularly in Iowa, that

you have been using the services of the Rock Island Motor Transit Company out of Kansas City.

A. We have customer and dealer accounts at Adair, Atlantic, Griswold, Davenport, Harlan, Ladora, and our own bulk plants located at Cedar Rapids, Clinton, Council Bluffs, Des Moines, Iowa Falls, Mitchellville, Monroe, Newton, Oakland, Oskaloosa, Ottumwa, Wellman, and West Liberty.

Q. Now, are those stations or bulk plants all served out of the Kansas City warehouse?

A. They are as to supplies. As to the marketing product, we formerly used the Rock Island Motor on all truckloads where we possibly could from East Chicago, Indiana, and then there is some distribution in smaller quantities from Omaha into Iowa.

Q. Now, are you familiar with the transportation facilities used by your company from Omaha and Whiting, Indiana, into the Iowa territory?

A. Yes, sir.

Q. And state whether or not the Rock Island Motor Transit Company was used by your company from those points into the Iowa territory.

[fol. 1370] A. On the truckloads from East Chicago we have used the Rock Island Motor wherever we could. We have preferred their service on account of the promptness in which they pick the shipments up at East Chicago. We have a situation at East Chicago, we are limited to space, and we schedule those shipments and get them ready and place them on the loading dock, and unless those shipments are removed promptly it ties up our operations there. We have a very large volume from Chicago, they not only supply, or to the territory in Iowa, Missouri and Minnesota, but supply our Central District, which has a very large volume into the States of Illinois, Indiana and Ohio, so it is important that we have good service in getting these shipments out when they are made ready.

Q. Now, in regard to your operations out of East Chicago in truckload quantity shipments, you are familiar with the fact the Rock Island Motor Transit Company are restricted in such operations at the present time?

A. Yes, sir.

Q. And has that caused any inconvenience and difficulty with your company getting such shipments out?

A. Yes, it has. As a matter of fact our manager in this territory is very much disappointed. He is not getting the service we formerly had.

Q. And if the Rock Island Motor Transit Company's rights are restored so they could handle that truckload [fol. 1371] traffic from East Chicago into the Iowa territory, would that traffic be given back to them?

A. It would be.

Q. And state whether or not you feel it is reasonably necessary for the expeditious service of your company out of the East plant to have the facilities of the Rock Island Motor Transit Company in handling such truckload traffic?

A. It is very necessary.

Q. Now, going back to Omaha, what shipments do you have coming out of Omaha in the Iowa territory?

A. Well, we have emergency shipments from Omaha throughout the State. They are usually small quantities. We have had as much, as high as ten thousand pounds, but the majority are small shipments.

Q. Those are the marketable products of your company?

A. That is right.

Q. Greases, oil, tires and things of that character?

A. That is correct.

Q. You also handle a line of insecticides and also a spray which is used by farmers, do you not?

A. Yes. The insecticide is manufactured at Chicago, and we sometimes mix those shipments, lubricating oil and insecticide.

Q. Now, this spray which I am referring to, that is new insecticide chemicals?

A. Yes, that is right.

[fol. 1372] Q. Now, these shipments coming out of Omaha, do they go to various small towns as well as the larger places?

A. Yes, they do.

Q. And what service has your company used out of Omaha to the Iowa territory in the past?

A. Well, we have used any number of carriers there.

Q. Have you used the Rock Island Motor Transit's service?

A. Yes, we have.

Q. State whether or not you have found the Rock Island Motor Transit Company serves points that no other carrier serves.

A. That is correct.

Q. Which points are involved in this proceeding?

A. There are several. I didn't have an opportunity to check into it too thoroughly, but I believe Harlan, Iowa, is one of them, and Newton, Iowa.

Q. How about points over in eastern Iowa such as Wellman? I think you say you have a bulk station there.

A. Yes, we do. As I recall it that is a local point.

Q. And the only company that serves Wellman is the Rock Island Motor Transit Company?

A. That is right.

Q. That is an off-route main highway point. Well, now, from the service which you have received from the Rock Island Motor Transit Company, state whether or not the continuation of that service is reasonably necessary to your company's business.

[fol. 1373] A. It is necessary.

Q. Out of Omaha.

A. We also require prompt service on our supplies, particularly paint. Any installation, any supplies where it is required to make an installation such as pumps or C. & M.——

Q. Mr. Kilmer, may I interrupt a minute. As I understand it all of your supplies come out of Kansas City?

A. Almost all of them. I would say ninety-five per cent.

Q. Do some of them come out of Omaha, too?

A. Very little any more. They did at one time, but we moved our supplies from Omaha to Kansas City, so there is very little out of Omaha.

Q. Where does the other five per cent of your supplies come from that don't come out of Kansas City in this territory?

A. They might come from any point. They might come from a warehouse in Des Moines or Cedar Rapids.

Q. Or might they come from the point of manufacture of those products?

A. Sometimes the shippers that we buy from make ship-

ments direct from the east, our pumps probably from Muskegon, Michigan, and other points east.

Q. Now, let's finish Omaha. As I understand it your marketable products come out of Omaha into this territory?

A. Principally marketing, yes.

Q. Now, in regard to your supplies, I understand most [fol. 1374] all of those supplies, repairs for pumps, your station equipment and products, and things of that character, including paints for keeping the places looking nice, soaps, and things of that character, come out of Kansas City?

A. That is right.

Q. And what facilities have you used on those shipments mainly into the Iowa territory involved in this case?

A. We have used the Rock Island Motor wherever we can.

Q. And what are the ordinary size of those shipments?

A. Well, they will run from a minimum on up to several thousand pounds.

Q. And has the five thousand pound limitation placed on the operation of the Rock Island Motor Transit Company interfered with your company's ability to get shipments to these various points?

A. Yes, it has.

Q. Involved in this application, and have you had difficulty in getting service to replace the service formerly given by the Rock Island Motor Transit Company for such sized shipments?

A. Yes, we have had a lot of trouble, particularly where the shipments are interlined. In some cases we have had delays and when we checked into it we found that the interlining carrier had used rail service beyond, such as beyond Des Moines, or other points, and that has tied it up for this reason. Our people that are making these installations, they go out and have a contractor scheduled to paint a sta- [fol. 1375] tion, or install pumps, and unless that shipment arrives on schedule, we are going to pay that contractor for a day's work until those shipments show up, so our people are very particular about this routing.

Q. If it doesn't show up for two or three days, you will pay him for two or three days' pay, is that right?

A. That is correct.

Q. Now, do you know of any other transportation agency out of Kansas City that would give you the same type of, and character of, service into this Iowa territory served by the Rock Island Motor Transit Company, other than the Rock Island?

A. I do not, not for the entire territory.

Q. Now, the fact is you do have service between Kansas City and Des Moines, isn't that true, you can get motor carrier service?

A. Yes. There are certain points that could be served direct.

Q. Now, do you have an opinion, Mr. Kilmer, as to whether or not a carrier that serves a small town shouldn't also have the right to serve the big towns in order to make up some of the loss that would be incurred by providing service to small towns?

A. It is my opinion they should have.

Q. And, in your experience as a traffic man, you have thousands of miles of roads of different truck companies, have you not?

A. We have.

Q. And from your observation and dealing with these companies do you have an opinion as to whether or not it is necessary for a truck company to have the so-called overhead freight——

[fol. 1376] Mr. Bradshaw: That is objected to——

Mr. Nolan: Wait a minute. I am not through.

By Mr. Nolan:

Q. —between the larger points in order to enable it to serve the smaller points with a regular service?

Mr. Bradshaw: It is irrelevant. The witness has not been qualified to answer any such question as that.

Exam. Carpenter: The objection overruled.

A. It is my opinion they should be.

By Mr. Nolan:

Q. Now, Mr. Kilmer, as I understand your testimony in regard to these supplies, and parts, and repairs, and so on and so forth, that you ship out of the Kansas City ware-

house into this Iowa territory, those supplies and parts may run anywhere from one hundred pounds up to several thousand pounds?

A. That is right.

Q. And would those several thousand pounds exceed five thousand pounds?

A. They do in some instances, yes.

Q. Will you tell us, for instance, take a place such as Wellman, Iowa. That is a town of about one thousand people. Do you know where Wellman is?

A. Yes. I have never been there but I know where it is on the map.

Q. Yes. What in the way of supplies and parts, etc., would reasonably be going into Wellman that would consist [fol. 1377] of several thousand pounds? What would that be, or what it might be?

A. I just doubt that we would have to exceed five thousand pounds to that particular point.

Q. Well, could you give us a point where you would make a shipment that would weigh in excess of five thousand pounds?

A. Well, I would say Newton, Iowa.

Q. And what would that shipment consist of?

A. Tanks, farm tanks, small storage tanks.

Q. That is where your company provides the storage tank for the farmer if he uses Sinclair products, is that right?

A. Yes, sir.

Q. Now, does he buy the tank, or is that given to him to use as long as he is a Sinclair user?

A. I am not too sure about that.

Q. And what else—would one of those tanks weigh in excess of five thousand pounds?

A. Not one tank. They will weigh about four hundred pounds, I believe, three to four hundred pounds.

Q. Would there be several of those tanks go on one shipment to that station?

A. Yes.

Q. That is where you ship in excess of five thousand pounds?

A. That is right.

Q. And how about if you are establishing a new station, would you ship out of Kansas City one shipment, the pumps, [fol. 1378] motors, compressors, hydraulic lifts, and so on?

A. Yes, we do have those combination shipments, and sometimes those exceed five thousand pounds. We might have several pumps. Those pumps crated will weigh about five thousand pounds or better.

Q. Now, supposing you are putting in a so-called super-station, where you have a hydraulic lift, a plate for one of those lifts, you have pumps, you have compressors, you have motors. Will all of those go in one shipment to that point of destination?

A. They do sometimes.

Q. And that would be a shipment in excess of five thousand pounds?

A. Yes.

Q. And do those shipments move out of Kansas City into the Iowa territory?

A. They do.

Q. And would they move by the Rock Island Motor Transit Company?

A. They have.

Q. And would you like to have that service available in the future?

A. We would.

Mr. Nolan: That is all.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Bradshaw:

Q. A couple of questions. Mr. Kilmer, what is it that comes out of East Chicago into the Iowa territory?

A. Just the marketing products, lubricating oil, insecticides.

[fol. 1379] Q. Now, does the routing of those shipments come within your jurisdiction?

A. It does in the, to the marketing district 1 described, from the Mississippi west.

Q. I see, and what are the size of the shipments?

A. They run from twenty to thirty thousand pounds.

Q. And who is handling those shipments into Iowa now from East Chicago?

A. Some of it is being handled by the railroads, and various truck lines.

Q. Would you be specific?

A. Well, we use quite a number of them. We have Brady, Des Moines Transportation, and some of the smaller companies such as—we also use the Burlington Transportation to some points.

Q. Those are to points on Highway 6 in Iowa or points covered by this application?

A. Well, to these points I named a while ago, yes.

Q. By that you mean Adair, Atlantic, Griswold, Harlan and Ladora?

A. Yes, that is right.

Q. Do some of those shipments from Chicago also go to your bulk plants?

A. Well, everything to our bulk plants is in truckload lots. Now, the customers——

Q. Just a moment. What I mean is some of the Chicago, [fol. 1380] these Chicago shipments, do they go to your bulk plants?

A. Well, that is the only shipments we make from East Chicago are truckloads to our own bulk plants and a few of our customers order in truckload lots. If they don't order in truckload lots, we ship it out of our warehouses, Omaha, Des Moines or Cedar Rapids in small quantities.

Q. Yes.

A. But our own stations are supplied direct out of East Chicago in truckload lots.

Q. What I am alluding to, I think you gave two groups of towns.

A. Yes. The first group was the customer accounts or dealer accounts.

Q. Do the customer accounts get anything out of East Chicago?

A. Yes, they do, in truckload lots.

Q. In truckload lots, and that is carried by Brady, Des Moines Trans., Burlington Trans. or the railroad, is that right?

A. That is right.

Q. And is the same true now as to the list of towns that you have bulk plants, in so far as Chicago shipments are concerned?

A. That is right.

Q. All right. Now, then, what do you ship out of Omaha to the points in Iowa?

A. Well, those are mostly emergency shipments where we might run out of certain items of oil, or some item that we have sold and we need it right now, but the station can not take a truckload.

[fol. 1381] Q. And what is the size of those shipments?

A. They will run all of the way from a minimum shipment, I better say a barrel of oil, five hundred pounds on it, to several thousand. They have been as great as ten thousand pounds I would say.

Q. And who handles those shipments from Omaha?

A. Well, we use the carrier that has direct service whereever it is possible to do so. We use any number of carriers out of Omaha.

Q. And can you name those carriers?

Mr. Nolan: I think that should be confined to points involved in this case.

Exam. Carpenter: You can confine your question to points involved in this case.

By Mr. Bradshaw:

Q. Carriers used out of Omaha to points on Highway 6.

Exam. Carpenter: Don't necessarily limit it to Highway 6.

Mr. Bradshaw: No, limit it to this application.

A. That would be difficult to say off hand. We use rail service in many cases.

By Mr. Bradshaw:

Q. What rails?

A. Well, we use the Rock Island. We use any railroad that will serve the point. We have no preference except that we try to use the direct service.

Q. Do you use any other common carriers, that is trucker [fol. 1382] common carriers?

A. Yes, we use Brady.

Q. Do you use the Iowa-Nebraska?

A. We have used them some but very little. Just off hand, I couldn't say what points they serve that are involved in this application. Then we use a number of small carriers I don't recall just who they are.

Q. Well, on your shipments over five thousand pounds are you able to get them to destination now out of Omaha to points covered by this application?

A. I don't know that we have had any recently.

Q. Now, then I wondered, you said it was supplies that you ship out of Kansas City into the Iowa points involved in this application?

A. That is correct.

Q. Do you use any other carriers, other than the Rock Island Motor Transit?

A. Yes, we use Bruce, Burlington Transportation.

Q. And I believe you stated that you did use the Rock Island Motor Transit for shipments over five thousand pounds prior to the restriction?

A. Yes, we have.

Q. And who have you used since the restriction out of Kansas City to the points involved in this application?

A. Well, I doubt that we have had any because in July [fol. 1383] our plant was under water, and we lost practically all of our supplies, and we have been shipping those in direct wherever we could, direct from the factory. However, we are getting stocked again, and we are ready to go ahead and ship direct, and, with the spring weather coming on, there will be a large movement of supplies. Our supplies move in small lots during the winter months for the reason there is no work being done, but they will start moving into Iowa right away.

Q. In your job as Traffic Manager, have you made any investigation to find out if there are any other carriers that can handle this traffic from Kansas City to the points involved in this application?

A. Well, I haven't because we haven't had occasion to start this movement.

Mr. Bradshaw: I believe that is all.

Mr. Nolan: Just couple of questions.

Redirect examination.

By Mr. Nolan:

Q. Mr. Kilmer, have you been informed that the Brady Truck Lines, or Brady Motor Freight, are embargoing any less than truckload shipments out of Omaha?

A. I understood they were. I haven't had any shipments that were for any points that were embargoed right at this time, but we will probably run into those.

Q. But that is the information you have in the instructions, Brady has so restricted his operation?

[fol. 1384] A. Yes.

Q. Now, what is the fact out of Chicago you are able to get many trucking companies that are able to handle the truckload operation but are not handling the small shipments into the small places, or do you have any small shipments coming out of Chicago?

A. Not out of East Chicago. We do have some supplies coming from the Field people in Chicago. That is our polish and lighter fluid that moves in small quantities. However, that usually goes direct to the warehouses, such as Des Moines, Cedar Rapids, and those shipments will run at times over five thousand pounds.

Q. Well, they go to the so-called larger centers?

A. That is right.

Q. Now, when you refer to Brady and the Des Moines Transportation Company handling your shipments out of East Chicago, those are truckload quantity shipments?

A. That is correct. They are all truckloads shipped out of the refinery at East Chicago.

Q. Now, you say your own stations are operated under a lease arrangement with your operator, and do you have stations, do you have customer stations where the customer owns the station and merely handles your products?

A. We have some, yes.

Mr. Nolan: That is all.

Exam. Carpenter: Recross.

[fol. 1385] Mr. Bradshaw: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

Exam. Carpenter: We will adjourn for lunch until 1:45 I guess.

(Whereupon at 12:15 p. m. a recess was taken under 1:45 p. m. of the same day.)

AFTERNOON SESSION 1:45 p. m.

Exam. Carpenter: If you are all ready.

G. C. MARTIN was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name and speak so we can all get it?

A. G. C. Martin, M-a-r-t-i-n.

Q. Where do you live, Mr. Martin?

A. Underwood, Iowa.

Q. Underwood, Iowa, is located where with reference to Council Bluffs?

A. Twelve miles north on Highway 64.

Q. Underwood, Iowa, is not on U. S. Highway 6?

A. No, sir.

Q. And about what is the population of Underwood?

A. About two hundred seventy-five, three hundred.

[fol. 1386] Q. And that being located close to Council Bluffs as it is, I take it that Underwood has the retail service installations of a small Iowa town.

A. Limited, yes, they are limited there.

Q. What is the nature of the places of business in Underwood?

A. Well, we have an insurance business, hardware, we have a blacksmith shop there that does some manufacturing in a small way, a lumber yard, oil businesses, there is three oil companies represented there, cafes, recreation parlors, and I have the general store and locker plant.

Q. And you have a line of general merchandise?

A. A line of general merchandise, yes, sir.

Q. And also operate the locker plant there in connection with it?

A. Locker and processing plant, yes, sir.

Q. How long have you been in business in Underwood?

A. It will soon be seven years.

Q. Now, do you have occasion to purchase some of your merchandise across the river over in Omaha and have it shipped in from other outside of the State points?

A. Yes, we do that almost daily.

Q. And I take it your principal source of supply for the merchandise that you handle is probably Omaha, is it not?

A. The greater volume comes from Omaha, yes, sir.

Q. Including supplies and materials for the locker plant, [fol. 1387] that would be your principal source of supply?

A. Yes. We have foods, groceries also there.

Q. What trucking service have you used for the transporation of your merchandise and supplies to your place of business?

A. We use the Kroeger Transfer of Omaha in most instances. However, incoming freight from various other suppliers, we also exclusively use the Rock Island Motor Transit.

Q. Now, the Kroeger Transfer Company, is that a local dray line?

A. That is a local dray line.

Q. And it is not what we commonly refer to as a motor carrier, that has through rates with the other common carriers over the country, has it?

A. I believe that, well, I couldn't say.

Q. Well, your principal business is Omaha?

A. That is correct.

Q. More so, and from other points of origin your principal common carrier is the Rock Island Motor Transit Company?

A. Yes, sir.

Q. Now, I take it there are a number of trucking concerns who go by Underwood on the highway?

A. Yes, there is.

Q. Are there, so far as you know, do any of those com-

mon carrier concerns render a regular daily service for picking up and delivering freight at Underwood, other than Kroeger and the Rock Island Motor Transit Company? [fol. 1388] A. I am not familiar with any daily service there.

Q. No one has solicited you with the representation they do provide that type of service?

A. No one has solicited me, no. I don't recall ever having occasion to receive freight. Well, it would be a rare exception.

Q. All right: What would you say as to whether your business would be affected there by the elimination or substantial reduction in the service now rendered by the Rock Island Motor Transit Company to Underwood?

A. Well, I think we would be at a kind of a disadvantage, inasmuch as we depend on them almost exclusively now.

Mr. Bradshaw: Just a moment.

Mr. Howland: Do you want the objection to precede that?

Mr. Bradshaw: Please. I would like to object unless this is limited to interstate commerce.

Mr. Howland: Well, I am referring to out of State transportation service.

A. I believe that is about the only type that we would use the Rock Island Motor Transit for because our local drayage agent, Mr. Kroeger, carries all of it.

Exam. Carpenter: Do you show the objection on there?

Mr. Bradshaw: I will withdraw it.

By Mr. Howland:

Q. In other words, the wholesalers who do business in Omaha and Council Bluffs, they make deliveries out there at Underwood to a large extent, do they, the food houses, [fol. 1389] and things of that sort?

A. Oh, yes.

Q. So, the Rock Island Motor Transit Company is the only regular common carrier that renders a daily service in there from the east and other points?

A. Other than the local carrier that I mentioned, that would be correct, yes.

VOL.

III

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VOLUME III

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1956

No. ~~101~~ 6

AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL., APPELLANTS,

vs.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, ET AL.

No. ~~110~~ 8

RAILWAY LABOR EXECUTIVES' ASSOCIATION, ET AL., APPELLANTS,

vs.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, ET AL.

APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

NO. 101 FILED MAY 22, 1956
NO. 110 FILED MAY 24, 1956
PROBABLE JURISDICTION NOTED OCTOBER 8, 1956

Mr. Howland: You may cross-examine.

Cross-examination.

By Mr. Bradshaw:

Q. Are you on a rail line?
A. Yes, sir.
Q. Which one?
A. The Rock Island and Milwaukee. Now, I would——
Q. That is all right.
A. The Milwaukee is only mail service, no freight.

Mr. Bradshaw: That is all.
Mr. Nolan: Let me develop that a little bit.

Redirect examination.

By Mr. Nolan:

Q. Are you familiar with the fact, Mr. Martin, that Underwood is on this line of the Rock Island Railroad which the Interstate Commerce Commission has authorized to be abandoned, with a new line of railroad between Atlantic and Council Bluffs?

A. That will soon be eliminated. That is my understanding.

Q. Now, the Milwaukee, does it perform any local service [fol. 1390] to Underwood?

A. Only mail service.

Q. As a matter of fact the Milwaukee has no station or agent at Underwood?

A. It has no station or agent, that is correct.

Q. Unless the Milwaukee would take over the facilities which the Rock Island has there at the present time, you wouldn't get much service, so far as the town is concerned, from the Milwaukee Line, would you?

A. No, we wouldn't have any service at all. It is going to be quite a handicap to us, the town there, if the Milwaukee doesn't.

Q. Doesn't take over the service?

A. Doesn't take care of our heavy freight such as lumber, etc.

Mr. Nolan: I think that is all.

Exam. Carpenter: Any further cross?

Recross-examination.

By Mr. Bradshaw:

Q. I believe you stated you didn't know of your own personal knowledge whether or not any other common carriers came into Underwood?

A. I can't recall any now. It would be the rare exception in a small town of that kind.

Q. You haven't investigated?

A. No, sir, not with the other businessmen. I can only speak for myself.

[fol. 1391] Mr. Bradshaw: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Nolan: Mr. Schneekloth.

LESTER SCHNEEKLOTH was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you state your name, place of residence, and occupation?

A. My name is Lester Schneekloth. I am from Poweshiek County, Malcom, Iowa. I operate a garage and distribute petroleum products in the country, rural dealer.

Q. How long have you lived in Malcom?

A. All of my life, fifty years.

Q. How long have you been engaged in the garage business?

A. 1920 to 1952, would be thirty-two years.

Q. Are you an automobile dealer, or only run a repair garage there?

A. I operate a repair garage. I formerly did have an automobile dealership but I gave it up.

Q. Now, Malcom is located about ten miles east of Grinnell, is it not?

A. That is right.

Q. And it is a station on the Rock Island Railroad?

A. That is right.

[fol. 1392] Q. You are located off of U. S. Highway No. 6 are you?

A. We are, about a mile and a quarter.

Q. About a mile and a quarter south of U. S. Highway No. 6?

A. That is right.

Q. What highway are you located on?

A. We are not definitely located on any highway where my place of business is. Highway 63 goes through Malcom.

Q. That is a road that runs from U. S. Highway No. 6 down through Montezuma to Oskaloosa?

A. That is right.

Q. Now, in your business there do you handle automobile supplies and parts?

A. I do.

Q. Do you handle tires and batteries?

A. I do.

Q. And other automobile accessories?

A. That is right.

Q. Now, you were a witness in the other hearing in this case?

A. Pardon?

Q. You were a witness before in this case?

A. That is right.

Q. In the temporary hearing?

A. That is right.

Q. Now, what shipments do you have coming in or going out, from or to out of State points?

[fol. 1393] A. Well, sir, I receive oil burners from Grafton, Wisconsin, and I receive some oil from the Illinois Oil Company, oil and grease.

Q. And are those less than truckload shipments?

A. Oh, yes.

Q. And how have you been receiving those shipments?

A. By Rock Island Motor Freight.

Q. And have you been receiving those shipments for a good many years that way?

A. Well, the oil business is just recently started, a year ago, the oil burner business.

Q. You are the dealer there for oil burners?

A. That is right.

Q. A space heater or house heater?

A. That is right.

Q. Those are single unit heaters?

A. They are individual space heaters.

Q. For home use?

A. That is right.

Q. Or office use?

A. That is right.

Q. Or business use. They are not connected with an oil burner furnace?

A. No.

Q. They are the single heat unit controls?

[fol. 1394] A. They are a unit in themselves.

Q. A heating stove?

A. Yes, a space heater.

Q. How has that service for the oil and oil burners by the Rock Island Motor Transit Company been?

A. Very good.

Q. And what other use do you make of the Rock Island Motor Transit's service at Malcom?

A. Oh, occasionally we are forced to get our pumps for our trucks from the Independent Manufacturing Company at Omaha. Occasionally we have to send those pumps in for repairs, and on different occasions get exchange pumps and send the meter off the old truck back to Omaha so they can have the tank and complete pump assembly by the tractor.

Q. What transportation company have you used for that?

A. The Rock Island, the only one we could get for that.

Q. Now, what is the fact as to whether or not the Rock Island Motor Transit Company is the only company that serves Malcom from both the east and the west?

A. What is that?

Exam. Carpenter: Read the question.
Mr. Nolan: Read the question.

(Question read.)

A. That is right, so far as I know that is the only trucks that come in from east and west.

[fol. 1395] By Mr. Nolan:

Q. Now, there are a number of truck companies that operate on No. 6, are there not? You have seen them on the highway?

A. That is right, but they are not allowed to come into Malcom.

Q. They don't come to Malcom?

A. Now, here is a case I had to get a motor from Indiana, a complete motor assembly, and I tried to use the Des Moines Transportation. The Des Moines Transportation could not bring that motor because they could not stop at Malcom. They had no stop, so it had to come by the Rock Island.

Q. What would be the effect on your business if the Rock Island Motor Transit Company should cease operating or materially restrict its operations?

A. Well, for shipments such as those stoves shipped from out of State shipments, it would inconvenience us a great lot.

Q. You would have to go to some other point?

A. Either be forced to go to Grinnell and make our shipments out of Grinnell, or some point where the truck line had a point, see.

Q. Now, do you not ship motors in for reconditioning, automobile motors?

A. We don't ship any for reconditioning at all.

Q. Do you ship new motors in occasionally for automobiles?

A. That is right.

Q. And from where do you get those?

A. In one case we had to get one from Indiana, and [fol. 1396] in another case from Bloomington, Illinois.

Q. In your repair work you occasionally have to install a new motor in an automobile, is that right?

A. That is right, and when the motor is available within the State, we buy it within the State. There are occasions we can not buy them and we have to buy them outside of the State.

Q. You operate what is known as a tank wagon delivery among the farmers for oils and greases, do you not?

A. That is right.

Q. In other words you have a tank wagon or tank truck, and you go around and deliver gas, and oil and grease to the farmers for their tractor engines and motors, is that right?

A. That is right.

Q. How many of those tanks do you operate?

A. Just one.

Q. And are you required to get repairs for that, and parts for that occasionally?

A. Occasionally we do for the pump, not for the truck, but for the pump and meter, and we get that repaired out of the Independent Manufacturing Company at Omaha.

Q. I see. Now, you say the Rock Island Motor Transit Company is the only company that serves Malcom. Therefore, you would have no other means of getting this merchandise in if the Rock Island Motor Transit didn't serve Malcom, isn't that right?

A. We have Van Wyk comes in from the south for local [fol. 1397] shipments, but for out of State shipments, we have no facilities at all except the Rock Island east or west.

Q. You have a local operator that operates through Ottumwa to Malcom and Marshalltown?

A. Yes.

Q. That is only for local shipments?

A. Yes.

Mr. Nolan: That is all.

Exam. Carpenter: Just a minute before you cross-examine. Off the record.

(Discussion off the record.)

Exam. Carpenter: All right, back on the record. Go ahead.

Mr. Gradshaw: I move this testimony be stricken on the ground it is all irrelevant and has no bearing on this application because of the fact that the Rock Island Motor Transit Lines already has the authority under their permanent authority.

Exam. Carpenter: The motion is denied. Go ahead, cross-examine.

Cross-examination.

By Mr. Bradshaw:

Q. What size shipments do you have out of Wisconsin?

A. Usually from three to five oil burners.

Q. What do they weigh?

A. Around two hundred, two hundred twenty pounds a piece.

Q. In other words, six—seven hundred pound shipments? [fol. 1398] A. That is right.

Q. Do you have any occasion to have over one thousand pound shipments out of Wisconsin?

A. No.

Q. Do you have any occasion to have any shipments from out of State of over one thousand pounds into Malcom?

A. Well, that would depend upon, of course, I haven't had anything in the past, but it could be hardware for some of these motors you have to get from Indiana and various places like that. You have to pick them up where you can find them.

Q. What would a motor weigh?

A. The Buick motor weighs eight hundred ninety some pounds.

Q. That would be under the one thousand?

A. That is right, but you can not know whether that would stay under that minimum or not.

Q. Would you be likely to stay under two thousand pounds?

A. Yes, I am sure of that.

Q. That is for any out of State source?

A. Pardon?

Q. From any out of State source?
A. Yes, I am sure of that.

Mr. Bradshaw: That is all.

Redirect examination.

By Mr. Howland:

Q. Where is the headquarters of this concern called the Illinois Oil Company?.
[fol. 1399] A. The headquarters?
Q. Yes.
A. Rock Island.
Q. Rock Island, Illinois?
A. Mmmmhuh.
Q. Can you tell us about what the population of Malcom is?
A. Well, it is between four hundred fifty and five hundred.
Q. Any manufacturing concern there?
A. No manufacturing. We have, I think I could be safe in saying, one of the largest cooperative elevators in the State of Iowa.

Mr. Howland: That is all. Thank you.
Exam. Carpenter: Any recross?
Mr. Nolan: That elevator, does that handle——
Exam. Carpenter: Wait a minute.
Mr. Bradshaw: No recross.

By Mr. Nolan:

Q. Does that elevator handle farmer supplies like wire and hardware, seeds, feeds, and things of that character?
A. We handle elevators, portable farm elevators, wire, and feed and seed, refrigerators, stoves, and just everything from hardware.
Q. Soup to nuts, in other words?
A. Yes.
Q. O. K.
[fol. 1400] A. That is right.

Mr. Nolan: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

Exam. Carpenter: I will ask Mr. Howland a question. Malcom is in the same position as Washington and some of these other points that are not on Highway 6?

Mr. Howland: That are on other routes connecting with Highway 6 via Des Moines, or some other point.

Exam. Carpenter: In the next couple of days can you give me the Sub. number that carries the Malcom authority?

Mr. Howland: I will get that. Will you inject that, Mr. Millett? It is in Sub. 1. I might read it to you.

Mr. Millett: Service is authorized to and from the off-route points of Malcom, Downey, and Stockton, Iowa, in connection with carrier's presently authorized regular route operations.

Mr. Nolan: That is all. Let's get over here.

ALLEN KIES was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Give us your name, place of residence, and occupation.

A. Allen Kies, Malcom, Iowa.

Q. And you live at Malcom, Iowa?

A. Yes, sir.

Q. You are engaged in the hardware business, is that right?

[fol. 1401] A. Yes, sir.

Q. You have the retail hardware store there?

A. Hardware and plumbing.

Q. Heating, any heating equipment?

A. Oh, yes.

Q. And general farm supplies?

A. Yes.

Q. Now, as I understand it, you have recently established your business there, is that correct?

A. Yes, the last six months. I was there for seven years prior, and I was out five years, and I am back again.

Q. Were you in business there seven years ago?

A. I was in the hardware, the same business.

Mr. Bradshaw: I would like to enter an objection to all of this testimony on the grounds it is irrelevant and immaterial. It is taking up time. Malcom is not involved in this application.

Exam. Carpenter: The objection is overruled. It is involved in the application so far as traffic moves over Highway 6 to get in there. As I understand it that is correct, Mr. Howland?

Mr. Howland: That is correct.

Exam. Carpenter: Just the same as any of these other points on the Rock Island line north of Highway 6 and the Rock Island lines south of Highway 6, am I correct?

[fol. 1402] Mr. Howland: We have authority to serve.

Exam. Carpenter: On lines south, don't you?

Mr. Howland: Yes.

Exam. Carpenter: And on lines north?

Mr. Howland: On lines north out of Des Moines and into Cedar Rapids.

Exam. Carpenter: The only reason you are putting on witnesses from those points, the traffic has to move to points on those lines is over Route 6.

Mr. Howland: That is correct.

Exam. Carpenter: Proceed.

By Mr. Nolan:

Q. Were you in business there before, did you use the Rock Island Motor Transit Company's service?

A. I did.

Q. How was the service then?

A. Very good.

Q. Did you have shipments coming in then from out of State points?

A. Yes.

Q. What were those points?

A. Some from Chicago, and Freeport, Illinois, and some bathrooms out of Wisconsin.

Q. Bathroom, you mean equipment like the Kohler bathroom?

A. Yes.

Q. That would include the tub, lavatory, stool and gen-
[fol. 1403] eral bathroom equipment, is that right?

A. That is right.

Q. And you say you are back in the same business in Malcom?

A. The same place.

Q. And do you presently use the Rock Island Motor Transit Company's service?

A. I am for outside shipments, but for local shipments I use the other.

Q. You use the line that operates between Ottumwa and Marshalltown?

A. Yes.

Q. On out of State shipments you are using the Rock Island Motor Transit Company?

A. Yes, and out of Cedar Rapids I use the Rock Island.

Q. Now, state whether or not there is any other east and west service into Malcom, Iowa, other than the Rock Island Motor Transit Company?

A. I haven't seen any trucks of any kind in there.

Q. Now, you heard the testimony of your fellow townsman, Mr. Schneekloth?

A. Yes.

Q. And if you were asked the same questions in regard to service in Malcom, would your answers be about the same? There isn't any other service there than the Rock Island Motor Transit Company affords out of State shipments?

[fol. 1404] A. That is right.

Q. And what would be the effect on your business, so far as these out of State shipments are concerned, if the service of the Rock Island Motor Transit Company should be terminated or substantially reduced?

A. Well, I don't know how we would get it in there.

Mr. Nolan: That is all.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Bradshaw:

Q. Is there a railroad through Malcom?
A. The Rock Island.
Q. Do you use them at all?
A. I don't believe they haul freight, do they, on small shipments.
Q. I am asking you.
A. Than carload lots. I don't believe they unload it.
Q. Do you know that is a fact, or are you just guessing?
A. I don't know that as the fact. I have been told that. I have never tried to use it.

Mr. Bradshaw: That is all.
Mr. Nolan: That is all.
Exam. Carpenter: You are excused.

(Witness excused.)

Exam. Carpenter: Mr. Howland, are you through with these gentlemen from Malcom?
[fol. 1405] Mr. Howland: Yes, they may be excused.
Mr. Nolan: Mr. Lindberg.

C. E. Lindberg was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. You are Mr. C. E. Lindberg of Minneapolis, Minnesota?
A. Yes, sir.
Q. You live at Minneapolis?
A. That is right.
Q. And what is your business, Mr. Lindberg?
A. I am Traffic Manager for the Janney, Semple, Hill & Company, wholesale hardware, Minneapolis, Minnesota.
Q. Is that "Semple" the same as "Simple" is spelled?
A. S-e-m-p-l-e.

Q. "e" instead of "i". You say you are Traffic Manager for that company. As I understand the Janney, Semple, Hill & Company is a wholesale hardware dealer?

A. Yes, sir.

Q. And all allied lines of hardware, is that right?

A. Yes, sir.

Q. And how long have you been connected with the company?

A. Oh, about twenty-five years.

Q. And you have testified before in the temporary application hearing?

[fol. 1406] A. Yes, sir.

Q. You are familiar with the character of the service proposed by the Rock Island Motor Transit Company in this case?

A. Yes.

Q. In this case it is an application for motor carrier operating rights without restriction either in regard to the size of the shipment, or key point.

A. Yes, I understand that.

Q. You understand that. Now, Mr. Lindberg, in the territory involved here between the Tri-Cities and Omaha, Nebraska, and the off-route points which would be served by the use of the line along Highway No. 6, state whether or not your company has regular customers in those points?

A. Yes, we have in, Oh, at least a dozen points.

Q. And can you state at this time the names of those points where your company has regular customers?

A. I can.

Q. And will you so state?

A. Atlantic, Brooklyn, Casey, Cedar Rapids, Iowa City, Marengo, Mitchellville, Vinton, Oxford, Oakland, Shelby, Walnut, West Liberty, those I know. There may be a few others, too.

Q. And do you have occasion to have new customers in various points?

A. Yes.

Q. In this territory. Now, you ship to the regular retail [fol. 1407] hardware dealer in the various towns involved here?

A. Yes, sir.

Q. And in other parts of the country, is that right?

A. Right.

Q. You don't have franchised dealers, or franchised stores?

A. No.

Q. Your company is a wholesale hardware company that sells to whoever wishes to buy of you?

A. That is right.

Q. Now, what would you say as to whether or not there is a regular flow of traffic into these points you have enumerated from your wholesale house in Minneapolis?

A. There is a regular flow. We have salesmen travelling all through Iowa, and several of them working along Highway 6, so that daily there is some shipment for some town on the line.

Q. So what would you say would be the size of the ordinary shipment to these points?

A. They are all L. T. L. shipments. I would say they would probably not run over one thousand pounds, possibly eleven hundred.

Q. And do you have occasion, however, to make volume shipments in excess of five thousand pounds to some of these points?

A. No, we don't.

Q. Now, Mr. Lindberg, what transportation facilities have you been using to these Iowa points that you have enumerated?

[fol. 1408] A. We use the Rock Island Motor.

Q. And would you say you have used that company almost exclusively to all or most of these points?

A. Yes.

Q. And how has that service been, satisfactory or otherwise?

A. Very satisfactory.

Q. Now, do you know of any other carrier serving the Twin Cities and these points on a daily schedule other than the Rock Island Motor Transit Company?

A. No, I don't.

Q. And what would be the effect upon your company's business in these points if the service of the Rock Island Motor Transit Company should be terminated or substantially curtailed?

A. Well, we are afraid it may be reduced because we have competition from Omaha and Des Moines, and Waterloo, Cedar Rapids, and the Tri-Cities. We have got to have service in these towns if we are going to compete.

Q. Do you know of any other transportation facility that could give you the same service the Rock Island Motor Transit Company is giving you from Minneapolis to these points you have named in Iowa?

A. No, I do not.

Q. Now, are you a member of various traffic associations in the Twin Cities?

A. Yes, sir

[fol. 1409] Q. And you have been active in the traffic field for a good many years, have you not?

A. Yes.

Q. And in your work of handling traffic for your company I assume you have had experience with a great number of trucking companies?

A. We have.

Q. And do you have an opinion as to whether or not it is reasonably necessary for a trucking company to give local service to the small intermediate points, they must also have overhead lines to the bigger points?

A. I believe they must.

Mr. Bradshaw: That is objected to. Did he answer?

Exam. Carpenter: I will overrule the objection.

By Mr. Nolan:

Q. I am asking you if you have an opinion on that subject.

A. I have.

Q. What is that opinion?

Mr. Bradshaw: Now, that is objected to, irrelevant, immaterial. Is is not the best evidence.

Exam. Carpenter: The objection is overruled.

By Mr. Nolan:

Q. You may state your views on that subject, Mr. Lindberg.

A. Well, I believe it is necessary there. An individual, owner-driver, possibly could get by with possibly small [fol. 1410] shipments, but a fairly good sized common carrier surely must have, not only L. T. L. shipments, but truckload volume shipments and overhead business, too.

Q. Could you reasonably expect some carrier to give service out of the Minneapolis area into these points in Iowa based say upon these local shipments to the small towns you have enumerated, could such a service be maintained without overhead volume service?

A. I am of the opinion they couldn't.

Q. State whether or not you have observed various trucking companies going to more overhead service than local service in recent years.

A. I think that is true. There are a good many of the truck solicitors coming in and looking for truckload business and large volume shipments. It appears to me that they have more or less neglected the L. T. L., the smaller shipments.

Q. And state whether or not that is particularly true where those smaller shipments are destined to the so-called small towns or intermediate points?

A. That is true.

Q. Between terminal points?

A. That is true.

Q. Have you experienced various trucking companies who operate between terminal points, refusing to accept the so-called small L. T. L. shipments destined to small points? Have you had that personal experience?

[fol. 1411] A. I can't say they have absolutely definitely refused to accept them, but they neglect to make a pick-up. It may be two or three days before they finally get around to it. They tell us they can not make the pick-ups on a certain day and will come tomorrow. Tomorrow never comes, and we have to find someone else to handle these shipments for us.

Q. You have a number of carriers operating between Minneapolis and Des Moines, do you not?

A. Yes, sir.

Q. And those carriers, are those some of the carriers that prefer that overhead volume freight?

A. Yes, they do.

Mr. Nolan: That is all.

Exam. Carpenter: Cross-examine.

By Mr. Archambo:

Q. Mr. Lindberg, during the years you have been employed by the Janney, Semple, Hill & Company, has your company been a member of the Minneapolis Traffic Association?

A. Yes, they have.

Q. And, as Traffic Manager of that company, have you directed any questions to the Traffic Association with respect to service, or freight claims, or complaints, I should say directed any complaints to the Association with respect to service or rates?

A. Yes, we have.

By Exam. Carpenter:

Q. Within the territory covered by this application? [fol. 1412] A. I am afraid I can not answer that.

Mr. Archambo: Mr. Examiner, I am doing that to clarify the statement I have prepared.

Exam. Carpenter: All right.

Mr. Archambo: It is true that is not for this company on this line, as I understand it.

Mr. Bradshaw: Pardon me. I think it ought to be limited to this application.

Mr. Archambo: I am only doing this for your benefit, Mr. Bradshaw, to clarify the position of the Traffic Association as to those members. We could not bring all of the members here today, and this is the only member I have here, and that is why I asked this question.

By Mr. Archambo:

Q. Under a former President of your company, do you know whether or not he had anything to do with the organization of the Traffic Association?

A. Yes, he did. He was one of the founders of it.

Mr. Archambo: That is all. Thanks.
Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Bradshaw:

Q. What other service besides the Rock Island Motor Transit Company do you have from Minneapolis to Atlantic, Iowa?

A. I believe that Watson holds out to serve that point, [fol. 1413] but as far as I know we have never used them.

Q. Any others?

A. To Atlantic?

Q. Yes.

A. No, not so far as I know.

Q. Now, you are talking about direct service from Minneapolis?

A. Yes.

Q. Now, you have available interline service to Atlantic from Minneapolis?

A. I can't tell you that either because we have never used it.

Q. And I assume the same is true as to Brooklyn?

A. That would be true.

Q. You can not tell because you have never had occasion?

A. We have never used it, no.

Q. And these other smaller points along Highway 6, would the same answer be true if I was to ask that question?

A. Generally, yes.

Q. I am excluding as not being smaller points, Iowa City. Now, do you have other service to Iowa City?

A. Yes, we have right now. I can't tell you who it is if that is what you mean.

Q. And how about Newton?

A. Newton, I know, I am sure there is a connecting line service there, but we haven't used that, either.

Q. In other words, Mr. Lindberg, you have been using [fol. 1414] the Rock Island Motor Transit, and you are satis-

fied with their service, and you haven't looked particularly for other services, is that right?

A. That is right.

Mr. Bradshaw: I believe that is all.

Redirect examination.

By Mr. Nolan:

Q. Mr. Lindberg, have you ever been solicited, or have you been offered service by any other motor carrier on a direct line service from the Twin Cities to any of these points you have enumerated, other than by the Rock Island Motor Transit Company?

A. No, we haven't. We have used other lines occasionally but that has been frequently due to some dealer routing his order in some other manner.

Q. You say that service has been "frequently". What do you mean by that word "frequently"?

A. I guess I will have to see the record on that. What I mean we have used someone else, we have been instructed to do so by either the dealer himself, or instructions on his orders.

Q. Has that been frequent or infrequent?

A. That has been infrequent, but the times it has been—I am getting balled up here a little bit, it is because the orders have been routed in that manner.

Q. Now, do you ordinarily control the routing rather than your customers?

[fol. 1415] A. No, we don't, but we have got to have service, and we are interested in it for that reason. If the dealers don't get service, we are not going to have any business.

Q. Who is your account in Iowa City, account or accounts? Slager Hardware Company?

A. Slager is one of them.

Mr. Nolan: I think that is all.

Exam. Carpenter: Recross.

Mr. Bradshaw: No recross.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Nolan: Mr. Archambo.

HENRY ARCHAMBO was sworn and testified as follows:

Direct examination.

My name is Henry A. Archambo, A-r-c-h-a-m-b-o. I am the Assistant Director of Traffic for the Minneapolis Traffic Association of Minneapolis, Minnesota. I am a Class B Practitioner. I have had over thirty-five years of experience in traffic and transportation matters in the industrial, rail and association lines. My industrial positions have been with wholesale paper houses or with grain commission houses and grain commission merchants. For the last, since 1932 I have held my present position. In connection with the rail service it had to do, my experience had to do with the checking of freight rates, [fol. 1416] assistance in the preparation of tariffs, the checking and supervising of, prior to the truck service, less carload rail service for merchandise freight. The Minneapolis Traffic Association, organized by the industrial interests of the City of Minneapolis, has on its membership list about seven hundred sixty members. About eighty-five of those members are of the grain group exclusively, and would not be interested in the proceedings here. The other grain members and industrial members, however, do ship less carload, less truckload, volume by both rail and motor. The Minneapolis Traffic Association may have on its membership railroads, motor carriers, air lines and express companies. Those members, however, have no say in the policy of the Association. They come into play through this means. Our Association derives part of its revenue from the grain members. The balance, or greater percentage of our membershp does come from the joining with the Minneapolis Chamber of Commerce in the solicitation of funds, so that automatically, when an industrial member becomes a member of our Association, he is also a member of the Minneapolis Chamber of Commerce. He

serves on their Board of Directors, or its Committees, but, as I previously explained, the Traffic Association speaks for the manufacturers, wholesalers and jobbers. For the benefit of the record I would like to clarify this further. I mentioned we had some seven hundred sixty members. The total membership would be in excess of that, but those in excess are Doctors, Dentists, Lawyers, etc., [fol. 1417] that would not be interested in transportation, and for whom we do not speak. One of the policies of the Association, supported by the Board of Directors, since I have been with the Association——

Mr. Bradshaw: May I inquire, just a moment. As I understand this Traffic Association is equivalent to the Chamber of Commerce.

A. No. It is organized and established merely for the purpose of protecting the members in their traffic and transportation matters. We have nothing to do with civic functions, beautification of the city, airline passenger fields, or of that nature.

By Mr. Bradshaw:

Q. You are a branch of the Chamber of Commerce?

A. No, we are separately organized and merely join with the Chamber to consolidate the solicitation of funds like you have a community effort.

Q. Who are you appearing here on behalf?

A. The industrial portion of the City of Minneapolis, shippers and receivers.

Q. By what authority?

A. The authority of the by-laws and articles of incorporation. The Board of Directors, as I explained, are exclusively industrial men, and they, in turn, elect a Sub-Committee.

Q. Did you have a meeting of the Board of Directors before you came here?

A. No, sir. The members of our Association have a [fol. 1418] Director of Traffic and Assistant Director of Traffic, whose duty it is to determine what is necessary for the City of Minneapolis in traffic and Transportation matters and keep it alive; and only in those matters where

we are going to spend some excessive amount of money, or it is a policy we have question in our mind, do we go to the individuals through the Board, or I may go direct to a member, a group of members.

Q. Well, your Board of Directors hasn't taken any action on this particular application, have they?

A. Not on this particular one has the Board of Directors. However I can say to you that six of the Executive Committee of it have already been informed of what I am going to do down here today.

Q. Informed by you?

A. So if there was any question in their minds I would have known about it, and of all of the truck transportation since 1921 I have been involved in, I have never yet had to go to the Board for any one of the problems. Every bit of testimony I have presented and briefs I have filed, have been approved by my Board of Directors, this Board as well as previous Boards.

Mr. Nolan: May I interpose a question here.

By Mr. Nolan:

Q. As I understand your position, Mr. Archambo, you and your superior Director are clothed by your Board of Directors with the discretionary power, when to participate and when not to participate in some traffic matter [fol. 1419] affecting the industrial shipping and jobbing welfare of Minneapolis?

A. Correct, and if we don't do that, and the industry suffers for a lack of service, we will be removed, and they will put somebody in who can run it.

Q. So then you exercise that discretion, yet with a great deal of judgment, etc., is that right?

A. I have reason to believe the experience I have had, and the contact I have had with the members, I do know the needs of the market, having been in the industrial field, the rail field, and this present field.

By Mr. Bradshaw:

Q. In other words, you set the policy and your members don't have anything to say about it?

A. The policy was set by the Board of Directors when it was organized.

Q. So far as this application is concerned, there has been no policy except in your own mind?

A. I disagree with that.

Exam. Carpenter: It is plainly argumentative. Go ahead.

Mr. Bradshaw: I want to object to the testimony of this witness.

Exam. Carpenter: The objection is overruled.

The Witness: In this particular application the market is affected in this way. When we have had for so long efficient peddler truck service and built up our sales on the small units, we can not afford to let it go by and let [fol. 1420] the other markets who are more aggressive supporting trucking operations, for example, to get into our trade territory and take it away from us.

By Mr. Nolan:

Q. May I interpose one question? What do you mean by "the market"?

A. Minneapolis market versus Chicago, Omaha, Kansas City.

Q. O. K.

A. We think we have as good industry as they have, and all we need is transportation to keep it alive. It is strictly a selling proposition, and you have reached a point where you have sold the buyer on the theory he need not buy large quantities of freight. Therefore, buy hand to mouth as it may, and to do that he must have the best possible service. That means rail, truck, water, airline and everything. We need every bit of it. In this particular instance of the Rock Island Motor Transit Company, our own check, and, by the way I have four rate clerks under my direct supervision, and they check those rate slips that we quote to these members every month, and those rate slips show that we are gradually increasing monthly the use of the motor carrier transportation to the detriment of the rail line, and it is all done because of service, as I asked Mr. Lindberg for clarification purposes, and mainly so. Then our office is receiving complaints.

not that the carrier will not render a service to the industry, but he doesn't have the pick-up truck available at the time the shipper wants it, so we can't do anything with that. You have got to take the motor carrier's word for it. He didn't have the equipment available. Then [fol. 1421] when we obtained a check to determine where we are at, and I have spent a good many nights doing that, we have decided, for instance, the Rock Island Motor Transit Company is a common carrier rendering to the general public, our shippers and receivers, the type of service they are authorized to render under the Interstate Commerce Commission's authority, but they tell our shippers, "I am sorry. I can't handle anything over five thousand pounds, I am limited to that." That is a restriction, so far as the Minneapolis market is concerned, which results in very poor service to us because I know I, as Traffic Manager, I find from a check most of our members do the same thing. They want to be able to deliver the traffic to the carrier they choose, and they want him to have it, say one hundred pound shipments, five thousand pound shipments, or a truckload shipment, whatever they have got, and that should be true of all truck lines. The competition should be free and equal and should be flexible. I don't know of any railroad that has ever been forced to curtail its operation to one specific type of traffic. Of course, the Commission was correct in reopening this case. They had a perfect right to do it. We only now urge this petition or application be granted as sought, there not be any restriction placed against it in the use of that carrier.

Mr. Examiner, if I may, I would like to ask for permission now to put in this record—first may I ask this. Has there been any part of the interim record introduced [fol. 1422] as part of this testimony?

Exam. Carpenter: You mean the temporary record?

A. Yes, sir.

Exam. Carpenter: No, sir.

A. Then may I have the permission to introduce, then, the testimony of one of our members, the Coast to Coast

Stores, Inc., by Frank Cohen, Traffic Manager of the Coast to Coast Stores? I received a wire from him at the hotel this morning in which he asked, he would like to have me do that, if possible.

Mr. Bradshaw: Unless I have an opportunity to examine the testimony, I object to it.

Exam. Carpenter: I will have to exclude it. You have no opportunity to cross-examine the witness.

The Witness: He has been cross-examined.

Exam. Carpenter: I know he has.

Mr. Bradshaw: This is a different hearing.

By Mr. Nolan:

Q. Mr. Archambo, you know of your own personal knowledge that Mr. Cohen, who appeared here as a witness in the application for the temporary authority, is indisposed and unable to appear here at the hearing?

A. That is correct. He has caught the flu and his doctor has advised him to stay away. Otherwise I would have him here today.

Q. And you know, to your knowledge, the Coast to Coast Stores ship into the Iowa territory?

[fol. 1423] A. He asked of my own knowledge. He was a member of my Traffic Committee. It is just through conversation I have had with him.

Exam. Carpenter: The objection withdrawn?

By Mr. Nolan:

Q. Well, you haven't had occasion to follow the shipments or trace the shipments of the Coast to Coast Stores in this territory?

A. No. You see I have checked the plan as to loading the freight, but did not go so far as to see who carried it and how.

Q. You expected Mr. Cohen to be here?

A. I saw it loaded on the pick-up truck. That may be Minnesota category, but I didn't notice.

Q. Now, by the way, is Mr. Cohen's organization, the Coast to Coast Stores, a member of your Traffic Bureau?

A. Yes, sir.

Q. You are speaking for the Coast to Coast Stores as well as the other industrial wholesale and jobbing interests of Minneapolis?

A. That is correct. I just took a rough list of the firms from our rate slips, indicating rate calls to that area, and I had sixteen when I stopped checking.

Mr. Nolan: Well, you go ahead, Mr. Archambo. You are an intervenor here.

Exam. Carpenter: Off the record.

(Discussion off the record.)

Exam. Carpenter: I would have to exclude that anyway.

[fol. 1424] A. That is all right.

Exam. Carpenter: Cross-examine.

Mr. Nolan: I want to inquire of the witness.

Exam. Carpenter: This is direct I take it.

Mr. Nolan: I am an intervenor, too.

By Mr. Nolan:

Q. You say you are speaking for the market of Minneapolis?

A. That is right.

Q. And by that do I understand the jobbing and shipping interests, manufacturers, etc., who have occasion to make shipments out of Minneapolis into the trade territory of Minneapolis?

A. That is correct.

Q. And from your many years of experience in the traffic field and acquaintance with the trade territory of Minneapolis, state whether or not the territory served by the Rock Island Motor Transit Company between the Twin Cities, and the Tri-Cities on the east, on the one hand, and Omaha, on the west, is within that trade territory for specific items jobbed and shipped out of Minneapolis.

A. Definitely and more since the advent of the trucking in 1921.

Q. And can you tell us, Mr. Archambo, the general nature of the commodities or items that emanate out of Minneapolis into its trade territory?

A. Yes, for instance our biggest shipments, taking them first, would be in lines like the Minneapolis & Moline Im- [fol. 1425] plement. Those are agricultural implement dealers. The Webber Company. Those would be plows and agricultural implements. There they would be shipped either out of the Minneapolis plant or the Moline, Illinois plant. Then you have your Lavoris, a chemical. You are in the drug line now, a mouth wash. Then you come to the Gamble Stores, similar to the Coast to Coast. They handle general merchandise, the Coast to Coast and Butler Brothers in the same lines, those three. In the hardware lines are companies, the Janney, Semple, Hill & Company, Own Hardware Company. It used to be called the Hall Hardware, Minneapolis Iron Store. These three, the principal hardware interests. Then we have, I am trying to take the larger shippers. It would take all day to get the little ones. Lindsay Brothers, another agricultural house.

Q. You mean agricultural implements, and spreaders?

A. Yes, spreaders, harvesters, etc. International Sugar Feed, animal and dog feed. Liquid Carbonic. That company, by the way, is limited to only the northern Counties of Iowa. They will reach to Des Moines but not east and west. Munsingwear, Inc., knit goods. Olson Fish and Briardale Fish, those two big fish houses. The others wouldn't get in here. Atwood Coffee and Bemis Brothers Bag and Chase Bag. The Chase Bag is not shipping out of Minneapolis. The new plant is under construction, and we are working on the shipping arrangements now. Superior Separator Company. I must add something in here now if I may, [fol. 1426] Mr. Nolan. We were speaking of our Minneapolis shippers. It must be understood in the suburbs of Hopkins, St. Louis Park, New Brighton, Edina, E-d-i-n-a, those industries have been moved from the Minneapolis City limits to those outskirts, and continue to do business through us and all of the transportation agencies located in Minneapolis.

Q. Well, isn't it true, Mr. Archambo, that many of your industrial plants are moved outside of the city limits of

Minneapolis but still Minneapolis is their main business point?

A. Yes, and we will have two large houses in there this year. I would like to add, if I may, our Association in connection with its members now are organizing a pooling organization. We have one started now called the Minneapolis Shippers Association. Mr. Lindberg is a Director. We get the thing organized and the shippers themselves handle it. That is for the purpose of consolidating shipments into larger quantities from the several shippers to eliminate L. T. L. shipments and turn them into volume. That is why I am so insistant that the Rock Island Motor Transit's distribution be flexible enough to permit the line to handle volume as well as L. T. L. shipments. We do that to save freight charges to the trade areas.

Q: Now, going back a minute to my original line of questioning, do I understand, then, that with these lines of merchandise which you have enumerated from the main manufacturing and jobbing houses in Minneapolis, I will say area rather than the City of Minneapolis, do they [fol. 1427] have to your knowledge a regular flow of merchandise into the territory served by the Rock Island Motor Transit Company in the east and west movement from Des Moines?

A. They have a regular flow of merchandise into that Iowa territory I am reasonably certain without having those rate slips in front of me. Wait a minute. I can answer that direct. The January check I made showed thirty-two of the shippers or members shipped into points on Highway 6. That is the month of February.

Q. Thirty-two of your members shipped into the Iowa territory served by the Rock Island Motor Transit Company in the territory covered by this application?

A. That is right.

Q. And do you know how those shipments moved?

A. No, I don't know. We don't have anything to do with the routing. We tell the member to choose his own line.

Q. Do you know how many points in the territory served by the Rock Island Motor Transit Company?

A. I find Griswold, Wellman, Walnut, and Mr. Lindberg gave you, his trade are on here. They are shown as Janney, Semple Hill.

Q. Mr. Lindberg of the Janney, Semple, Hill & Company?

A. That is right.

Q. Who preceded you on the witness stand?

A. That is right. Newton, Marengo, Harlan, Grinnell. Here is Lindsay Brothers to Homestead, Avoca, Oxford, [fol. 1428] Victor, Harlan and Marengo, and they run along that way.

Q. We might as well make the record complete, if you have that information, and take the various companies and the data for the month of January, 1952. Let's take the companies and the shipments they made during that month.

A. We had Janney, Semple, Hill and Lindsay. Take Munsingwear, we had Newton, Grinnell and Oakland. Minneapolis—Moline had only two, Oakland and Homestead. I want to say now I didn't check the number of hauls we had on this.

Q. These companies, as I understand from their freight bills, they made shipments to these points during January 1952.

A. There may be more than one. I did not check to see if it was repeated. Newhouse Paper, only one point, Grinnell. Olson Fish, Harlan. Butler Brothers, one, Audubon. I have missed one, International Harvester. Our records show six points, but I forgot to list them. Atlantic for Atwood Coffee. These are duplications. Hilltop Laboratories had Marengo, Audubon and Brooklyn. Pearson Candy, Coralville. S and M; that is a supply house similar to Coast to Coast. They handle tires and automotive supplies, Newton. Western Electric, Mitchellville, Audubon, Atlantic, Colfax and Grinnell. Now, the Western Electric is located in what we call the northwest terminal district. It is in the Midway district. It is almost between Minneapolis and St. Paul, but it is in the Minneapolis area. That is a representative house. Schaffer, Inc. They make house-[fol. 1429] hold refrigerators, store coolers, freezers, and these small home low temp freezers like the deep freeze. They ship to Grinnell.

Q. Now, Mr. Archambo, are you acquainted in a general way with the quality of service which the Rock Island Motor Transit Company has performed from Minneapolis and the Minneapolis area to points in interior Iowa along the line which is involved in this case?

A. Yes, and to explain how I am so familiar, I haven't it pasted on here, when the motor carrier industry started in the Twin Cities I sat on the Minneapolis-St. Paul truck terminal Board of Directors, as a shipper representative on a truck group Board of Directors to help them organize it. That is how much we wanted truck service.

Q. And what has been the quality of that service?

A. Very good. I think I am responsible for some of them because I have given them some complaints to get it right.

Q. And do you know of any other motor carrier performing the same type of local service to these points on U. S. Highway No. 6 between the Tri-Cities and Omaha, and the off-route points such as Wellman, Kalona, Malcom, etc., from Minneapolis and the Minneapolis area other than the Rock Island Motor Transit Company?

A. I have got to answer that this way. We have got some very good truck service which we want to keep out of the Minneapolis market, principally Watson, H & W, Des Moines Transportation, but when you come to peddle service, my experience has been this in investigations I have [fol. 1430] made, and, of course, you retain it, the Rock Island Motor Transit Company has been complying with its common authority, where the other fellows who should give us this kind of service are picking and choosing the freight, and that is very detrimental to our industry.

Q. You find the H & W gives a very good local service, do you not?

A. Very good service. I could answer that more but I don't want to.

Mr. Nolan: Off the record.

Exam. Carpenter: This is all off the record.

(Discussion off the record.)

By Mr. Nolan:

Q. Now, I believe that you have an opinion and have expressed it on the need of a carrier which gives local peddle service and having volume shipments between key points.

A. Yes, and on that basis must have more than local business. He must have the large town with the small town.

Q. And must he also have volume shipments in order to stay in business?

A. Definitely.

Q. And, as I understand it, you are appearing here on behalf of your Association as an intervenor in support of the application?

A. That is correct.

Mr. Nolan: I believe that is all.

Exam. Carpenter: Cross-examine.

[fol. 1431] Mr. Nolan: Cross-examine.

Cross-examination.

By Mr. Bradshaw:

Q. Do your records show what the thirty-two members shipments were composed of that were shipped into these points on Highway 6?

A. They would, yes, they would. He asked the rate clerk for a rate on refrigerators.

Q. I mean what type it was.

A. Yes, the article and the way it would get there, but you understand, our Association—

Q. Well, what was the weight of the shipment that went into Griswold, for instance?

A. I am sorry, Mr. Bradshaw, I did not bring those rate slips with me. I wish I had.

Q. Do you know whether it was under one thousand pounds or not?

A. I can say this to you. Our rate slip I have for these points, the Rock Island handled it. They must have handled the ones under five thousand, indicating to me the shipper at the time he asked for the rate knew that was restricted.

Q. You might know that so far as the Rock Island is concerned, but didn't you testify you did not know what carrier took any of these shipments in to any of these points on Highway 6?

A. Right, because the policy of the Association is not to direct any shipper on any line. We will tell them who can serve this line and they choose it.

[fol. 1432] Q. Actually you are here representing a large

Association, see if I have this right, with the idea in mind you have some transportation and you want to keep it?

A. Right.

Q. And if you can get something more, you want to get it?

A. We need something more.

Q. Of course, as you stated before, it was your personal feeling that even though there was service there, the restriction ought to be lifted because you felt the shipper ought to be able to choose from a number of carriers, isn't that right?

A. Yes, and you will find in previous testimony of mine, I have opposed duplication where duplication is detrimental to the transportation agencies. You don't have that here.

Q. You are not saying anywhere in your testimony, if I have it right, there isn't sufficient carrier service between Des Moines and Minneapolis?

A. No.

Q. Or Minneapolis and Des Moines?

A. That is one of the points where we have wonderful service.

Q. And how about Minneapolis to Omaha?

A. That is very good, but again there is a line, as well as at Des Moines, where your carrier chooses what he wants by that method of not being able to pick up freight.

Q. Now, Lindsay Brothers have a house here in Des Moines, do they not?

[fol. 1432a] A. I won't say where their branch is. I don't know where their branch is. It is possible.

Q. And a great many of these other clients of yours?

A. Lavoris has a warehouse down here, I know it does.

Q. So wouldn't this be true, that shipments to these smaller towns on Highway 6, that would normally go out of these local warehouses than direct from Minneapolis?

A. No; no, not normally. They will do just as they want it done. They will determine where you are shipping this particular order, whether you want it out of the warehouse stock, or out of the main plant.

Q. You tell Lindsay I happen to know it is more than a warehouse here.

A. I don't know what he has here. He is one of the organizers of the Association, by the way, Lindsay Brothers.

Mr. Bradshaw: That is all.

Mr. Nolan: I have a couple of more questions on cross-examination, Mr. Archambo.

Redirect examination.

By Mr. Nolan:

Q. So far as your complaint records are concerned on your pick-ups by the Rock Island Motor Transit Company in the Minneapolis area, has it given reasonable satisfactory service?

A. I will say I have never had a complaint as to motor truck service. I have as to other carriers, but none as to the Rock Island.

[fol. 1433] Q. You have no complaint as to the Rock Island Motor Transit Company?

A. None.

Q. If there had been delay, would you have received a complaint?

A. I am very certain, and Mr. Graybill would have heard about it.

Q. Mr. Graybill is the Agency Manager?

A. For the Twin Cities, St. Paul and Minneapolis, and we have had several conferences.

Q. Now, you understand, Mr. Archambo, do you not, that the Rock Island Motor Transit Company is now operating under temporary authority with a five thousand pound limitation on shipments?

A. I do.

Q. And with certain key point restrictions?

A. I do.

Q. You understand, do you not, that the Rock Island Motor Transit Company is simply attempting in this proceeding to reclaim, or have restored, the service and authority it had prior to last summer?

A. That is correct.

Q. And you understand, do you not, that this is not an attempt on the part of the Rock Island Motor Transit Com-

pany to duplicate or to invade a field served by other carriers where it did not serve before?

Mr. Bradshaw: I object to this testimony by Mr. Nolan. [fol. 1434]. If he wants to ask the witness questions, that is all right.

Mr. Nolan: This is cross-examination.

Exam. Carpenter: Off the record.

(Discussion off the record.)

Mr. Nolan: I have got a right to cross-examine some other intervenor here whether he is hostile or not.

Mr. Bradshaw: You don't have to testify for him. He is capable. I would like a ruling.

Exam. Carpenter: I will sustain the objection. Go ahead and reframe your question if you want to.

By Mr. Nolan:

Q. Mr. Archambo, what is the fact as to whether or not you understand this application as an application to restore the service that the Rock Island Motor Transit Company formerly performed in the area involved in this case?

A. I will answer that in this way. We understand that the Rock Island has applied here for not only the interim authority but for unlimited authority to transport L. T. L., volume and truckloads to every point along Highway 6, plus those off-route points north and south.

Q. And state, in your opinion, whether or not the proposal made by the Rock Island Motor Transit Company, from your experience, any service which the Rock Island Motor Transit Company formerly performed to Minneapolis and the Minneapolis area, is reasonably necessary to provide the Minneapolis shippers and the Minneapolis area shippers with an adequate service into the territory [fol. 1435] presently, which had been served and which is presently served under temporary authority by the Rock Island Motor Transit Company?

A. It has been very satisfactory and we have supported you twice. Our former Director, Mr. Frank Townsend was in your original case back in, I think, 1938 when you held that Chicago hearing.

Q. You didn't support me because I didn't have anything to do with it.

A. The Rock Island.

Mr. Howland: November 18, 1937.

A. November 18, 1937, thanks.

By Mr. Nolan:

Q. The point I am trying to make, from your opinion, from past experience with the Rock Island Motor Transit's service in this Iowa territory involved in this case, whether or not a restoration of that service is reasonably necessary to give adequate service to your shippers in the Minneapolis area?

A. Not only our Association believes so, but every member I have contacted has been one hundred per cent for it.

Q. I am only asking for your opinion as a representative of the Minneapolis Association.

A. That is right.

Q. And do you so believe?

A. I do.

[fol. 1436] Q. Or else you wouldn't be here?

A. That is correct.

Mr. Howland: I would like to ask one question, Mr. Archambo.

By Mr. Howland:

Q. From your observation of the situation which exists in this territory, and your knowledge of the situation, are you aware of any action taken by the Rock Island Railroad Company with respect to dominating the affairs of the motor carrier subsidiary, the Rock Island Motor Transit Company, in its operations, are you?

A. I wouldn't know.

Q. You would have no information on that. Let me ask you this question. Has the Rock Island Motor Transit Company, in your knowledge of its operation, complied with the obligations which are imposed upon a motor carrier?

A. I so stated on direct testimony.

Mr. Howland: Thank you.

Exam. Carpenter: Anything further, Mr. Bradshaw?

Mr. Bradshaw: Nothing further.

Exam. Carpenter: I take it you are through, Mr. Howland?

Mr. Howland: Yes, sir.

Exam. Carpenter: You are excused.

(Witness excused.)

Exam. Carpenter: We will take a five minute recess here.

(Short recess.)

Exam. Carpenter: Go ahead whenever you are ready.

[fol. 1437] Mr. Howland: Is Mr. Faust here?

Mr. Graybill: No, he was called to Chicago.

Mr. Howland: We will call you. Your name is Graybill?

Mr. Graybill: Yes.

Mr. Howland: Come forward and be sworn.

Ray W. Graybill was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. State your name, please, so we can all get it.

A. Ray W. Graybill, G-r-a-y-b-i-l-l.

Q. And you live where?

A. St. Paul.

Q. And your occupation is what?

A. Commercial Agent for the Rock Island Motor Transit.

Q. And in what area?

A. I have the whole Twin City area with occasional trips over to Eau Claire and Chippewa Falls.

Q. What is the nature of the work that you do there as Commercial Agent in the Twin City area, Mr. Graybill?

A. Calling on the shippers and receivers of freight.

Q. And are you familiar with the general type and character of the business conducted by the Rock Island Motor

Transit Company in the Twin City area, both inbound and outbound?

A. Yes, sir. I have been up there nine years this time. [fol. 1438]. Q. What experience did you have before going to the Twin City territory?

A. I started with the company in July after they started operating in June. It will be fourteen years this year. Opening new routes to start with.

Q. In what territory were you first employed?

A. I worked two days a week in Kansas City, and the other three I spent north of Atchison and Lansing, and another route out of Topeka.

Q. What service has been performed by the Rock Island Motor Transit Company into the territory along U. S. Highway 6 and adjacent to it on either side from the Twin City area? How has that business been handled?

A. Well, it comes down to Des Moines, and then it is served east and west out of here.

Q. And about what time do the units depart from Minneapolis and St. Paul with freight destined to these?

A. We try to get them out by seven o'clock in the evening.

Q. And that is on a six day a week basis?

A. That is right.

Q. Then, what is your normal schedule of service with respect to effecting deliveries, say to points like Victor, Iowa, on the east, Victor and Brooklyn, and places like Anita or Adair and Wiota?

A. Normally second day service out of there, and occasionally——

[fol. 1439] Q. And that means second morning delivery?

A. That is right, and occasionally we slip up and it would be a third morning.

Q. What are the principal types of traffic which are moving out of the Twin Cities territory into this area, generally?

A. Well, it is various. I have got a little list here of seventy three shippers, and points to which they shipped, taken from our actual shipping orders for the month of February.

Q. February, 1952?

A. February, 1952, that actually used this service. I

didn't list the number of shipments each one made, but I did list the shipper and the points to which they shipped.

Q. You say there is seventy-two individual shippers?

A. Seventy-two individual shippers, that is right.

Q. And how many points of destination on the routes that are involved in this particular application?

A. Well, for instance, Mr. Lindberg testified as to his actual shipments. Our bills of lading showed we received from him..

Q. There is Liquid Carbonic, do you have them, any traffic from them?

A. You asked a little while ago about Lindsey. They actually made shipments to Homestead, Avoca, Oxford, Victor, Harlan and Marengo from the Twin Cities.

Q. Now, these shippers shown on this list have as destinations as high as six and seven different destinations? [fol. 1440] A. That is right, and others have single points.

Q. Would it be agreeable to mark that as an exhibit?

A. Surely, if I can take it as a reference.

Q. Then, have you made any examination there with respect to the shipments made by the Coast to Coast Stores to representatives located in the territory that is involved here during the month of February, 1952?

A. I didn't list those points. I called Mr. Cohen up to the last minute, and I thought he was coming down. I didn't show those points, to every place on this system. I get around one hundred thirty to two hundred thousand pounds a month from the Coast to Coast, and ninety per cent of that comes into Iowa.

Q. And a substantial part of the shipments made by the Coast to Coast, then, would be located on or adjacent to U. S. Highway 6, or on routes that could only be reached from Minneapolis?

A. A substantial amount of them, yes.

Q. What is the service from these Iowa points into Minneapolis and St. Paul, Mr. Graybill?

A. It will consistently run second morning. Straight loads, sometimes we get those in the next day. Sometimes they pick up a straight load and wheel it right on through, and we get it the next day.

Q. Now, prior to the latter part of July, or the first part of August, 1952, what is the fact as to whether the Rock

Island Motor Transit Company did consistently handle [fol. 1441] truckload shipments on request from Minneapolis to the Tri-City area or the Omaha area?

A. Well, I can only speak for the Twin City area.

Q. That is what I am asking.

A. Instead of the Tri-City.

Q. The question calls for whether service was rendered from the Twin City area to the Tri-Cities or to Omaha.

A. Prior to that time?

Q. Prior to that time, August, 1951.

A. Yes, we did.

Q. And what were the general type of commodities that were handled in truckload quantities?

A. Well, in truckload lots we had quite a number of shipments of tires from the United States Rubber at Eau Claire. Then there was some straight loads of groceries going down to Nash-Finch at Ottumwa. On this list I haven't listed any of the larger points like Iowa City or Cedar Rapids, and those points that have several services available.

Mr. Howland: I will ask the reporter to mark the statement as an exhibit.

Exam. Carpenter: For identification, Exhibit No. 17.

Mr. Howland: For identification as Exhibit No. 17.

(The statement referred to was marked as "Applicant's Exhibit No. 17, Witness Graybill," for identification.)

By Mr. Howland:

Q. I will ask you with respect to this paper marked for identification as Exhibit No. 17, whether that correctly [fol. 1442] discloses the names of the shippers and the destinations to which shipments were made for the month of February, 1952?

A. It discloses the name of the shipper. It doesn't give the name of the consignee, sent to the destination, the town to which the shipments were made.

By Exam. Carpenter:

Q. And it consists of two pages?

A. Yes.

Q. Two sheets, rather, would be better.

By Mr. Howland:

Q. There are two sheets in the exhibit?
A. That is right.
Q. And if any one here, any one requests it, are you willing to supply the pro numbers and the bills?
A. Yes, sir. I would be glad to.
Q. For that purpose.
A. This doesn't list the number of shipments. It is just the shipper and the town to which the shipment is made.

Exam. Carpenter. Do you desire a copy of it, Mr. Bradshaw?
Mr. Bradshaw: Yes, I do.
Mr. Howland: We will have a copy made.

A. I didn't show on there the points the International Harvester shipped because my understanding was they would have a representative from Chicago here at the hearing. That is what they told Anderson, or he would have come down.

Mr. Bradshaw: Just a minute. I would like to have this restricted to question and answer.
[fol. 1443] Exam. Carpenter: All right. That is all right.

By Mr. Howland:

Q. Let me ask you this, Mr. Graybill. Have you in recent months had requests from shippers in the Minneapolis-St. Paul area for the performance of volume service, and by that I mean for the transportation of shipments in excess of five thousand pounds?
A. Yes, I have.
Q. From the Twin City area into this territory east and west adjacent to Highway 6 across the State of Iowa?
A. Yes.

Mr. Howland: I will offer and introduce in evidence at this time the document marked for identification as Exhibit No. 17, consisting of two sheets, and we will provide additional copies for the opposing counsel and the record.

Exam. Carpenter: Any objection?

Mr. Bradshaw: May I inquire?

Exam. Carpenter: Yes, sir.

By Mr. Bradshaw:

Q. Did you make this list yourself?

A. Yes, I did.

Q. And where did you get your information from?

A. From the orders actually on file in our office.

Q. The orders from which you got this information show the individual shipments to each town?

A. Sure, the consignee and consignor, the weight, the rate and the total revenue.

[fol. 1444] Mr. Bradshaw: Off the record.

Exam. Carpenter: Off the record.

(Discussion off the record.)

Exam. Carpenter: Back on the record. All right, go ahead on cross-examination.

Mr. Bradshaw: Subject to the additional information shown on the bills of weights and the consignee, and days of shipment, I have no objections if it is agreeable that information be shown.

Mr. Howland: We will furnish that information as promptly as possible.

A. I am going back tomorrow. Tomorrow is Thursday. I can have that down here——

Mr. Howland: By Monday?

A. By Monday, yes.

Exam. Carpenter: The document is received in evidence as Exhibit 17.

(Applicant's Exhibit No. 17, Witness Graybill, was received in evidence.)

Cross examination.

By Mr. Bradshaw:

Q. Your office is in Minneapolis, Minnesota?

A. St. Paul.

Q. St. Paul?

A. Yes, sir.

Q. Where?

[fol. 1445] A. 187 East Filmore, the Rock Island Freight House.

Q. That is the Rock Island Freight House, the Freight House for the Rock Island?

A. Yes.

Q. And also the Rock Island Railroad?

A. Yes. Also for the National Battery Warehouse space, and the Dorr-Redpath Fruit Company. It used to be Gamble-Robinson.

Q. The Rock Island Motor performs pick-up and delivery service?

A. Yes, sir.

Q. And do they pick up the shipments that are rail billed?

A. No, sir.

Q. You have a separate?

A. That is all done by a local transfer concern that picks it up and brings it in to the Rock Island dock. When I say "Rock Island" I mean Rock Island Rail. We don't do any pick-up and delivery for the rail at all. We don't do any pick-up and delivery for the rail at all.

Q. At that point?

A. At the Twin Cities.

Q. At that point. You stated there were some tire shipments to the Tri-Cities in truckload lots prior to the restriction?

A. Prior to the restriction, yes.

Q. Do you know who is handling those tires now?

A. No.

Q. Do you know whether or not they are being handled?

[fol. 1446] A. Sure they are moving, but I don't know who. The Minnesota-Wisconsin was bringing them in.

Q. What shipments did you make to Ottumwa in truckload lots?

A. The Nash-Finch Grocery Company, from their headquarters in——

Q. Where are their headquarters?

A. In Minneapolis.

Q. And who is handling those truckload shipments now?

A. I don't know.

Q. Do you know they are being handled?

A. I think they are. There was a steady movement prior to this restriction.

Q. Do you know of any shipper, or any carrier that can carry truck loads from Minneapolis or St. Paul to Ottumwa?

A. I believe Merchants and Bruce both have rights in there. That is a case where they take the cream and leave the L. T. L.'s.

Q. In other words, they do carry some truckloads?

A. They will take truckloads in there, yes.

Q. And who operates from Minneapolis to the Tri-Cities on truckloads?

A. I believe Gateway goes down through there, and the H & W.

Mr. Bradshaw: That is all.

Exam. Carpenter: Redirect.

Mr. Nolan: I have a couple of questions on cross-examination as an intervenor in this case.

Redirect examination.

[fol. 1447] By Mr. Nolan:

Q. Do I understand, Mr. Graybill, in connection with Exhibit No. 17, that you did not include such points on U. S. Highway No. 6 involved in this proceeding as Des Moines, Iowa City?

A. That is right.

Q. And the Tri-City area?

A. Right.

Q. Now, I notice on Exhibit No. 17 that from Janney, Semple, Hill, as the shipper, there were shipments made to the towns of Marengo, Oxford, Atlantic, Brooklyn, Newton, Casey, Wellman, Colfax, Oakland, Mitchellville, Exira, and Griswold by the Rock Island Motor Transit Company during the month of February?

A. The month of February, yes, sir.

By Exam. Carpenter:

Q. 1952?
A. 1952.

By Mr. Nolan:

Q. Do I further understand those were the destination points, but do not necessarily reflect the number of shipments to those points, is that correct?

A. That is correct.

Q. What do you mean here by the International Harvester Company, as shipper, to all points that have International distributors?

A. They have a number of distributors in practically every town of any size, has an International dealer. They receive parts from the parts depot out on Eustis here in Minneapolis.

Q. Do you know from your own knowledge whether or [fol. 1448] not the International parts for the Iowa territory involved here are supplied out of the Minneapolis center?

A. To a large extent, they are. Some comes out of the Kansas City branch, but the largest majority comes out of the Minneapolis branch.

Q. This supporting abstract you are going to furnish, will you furnish the points to which the International Harvester made shipments during the month of February?

A. Yes, and we can also of the Coast to Coast as well.

Q. And can you include that in your abstract?

A. Yes.

Q. I notice the transportation involved of the Fuller Brush.

A. They also have shipments coming to practically all of these points. Mr. Faust was supposed to come down with us but he was called into Chicago.

Q. And can you have that abstract of shipments for February include shipments made by the Fuller Brush Company to the Iowa points involved in this case?

A. Yes, sir.

Q. I notice the transportation involving the Great Lakes Pipe Line. What reference do you have to that on Exhibit 17?

A. They called they had forty thousand pounds of pipe going down. I said, "We can not take it. We have a five thousand pound restriction." He says, "If I make out eight bills of lading with five thousand pounds on each one, can [fol. 1449] you handle it?" I said, "Yes".

Q. Did you handle it?

A. We handled it that way. You are penalizing yourself. It is much higher than the truckload rate. He come out here seventeen miles and picked up the pipe, and you are entitled to this business, and we got it.

Q. I will ask you what other shippers in the Twin Cities area have voluntarily reduced volume shipments to come within your five thousand pound limit?

A. Off hand I couldn't specify a certain company. We have had a number of calls and we had to just tell them we couldn't handle it. Most of them don't feel like the Great Lakes boy did, and the shipments go some other way to get them here.

Q. Now, on this Exhibit No. 17 where you have the towns of Homestead, Avoca, Oxford, Victor, Harlan and Marengo, as the towns opposite the shipper Lindsay Brothers, the shipments were made to those towns during the month of February?

A. That is right. They have a warehouse here, and even the Traffic Manager and the Shipping Clerk gave me those shipments. The Traffic Manager said, "We did ship down there." We have the billing for handling the shipments, and the Shipping Clerk shipped them out of there. Probably something they were probably out of stock here, and for some reason they were shipped out of the main house there.

Mr. Nolan: That is all.

[fol. 1450] Exam. Carpenter: Anything further, Mr. Bradshaw?

Mr. Bradshaw: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

Exam. Carpenter: Off the record.

(Discussion off the record.)

BRUCE THOMAS was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you state your name, place of residence, and occupation?

A. Bruce Thomas, Auditor of the Ideal Manufacturing Company, Oskaloosa, Iowa.

Q. The Ideal Manufacturing Company, Oskaloosa?

A. That is correct.

Q. And what products does your company manufacture?

A. Well, we make a wide variety of metal fabricated products, trailer hitches, small wire brackets, milking machines and water systems, are the major division.

Q. How large a City is Oskaloosa?

A. About twelve thousand.

Q. And are there other industries there besides your company?

A. Yes.

Q. What other manufacturing concerns are there?

A. Well, the Iowa Valve is there, probably the major [fol. 1451] other industries. Then, there are some smaller industries.

Q. And, in addition to your industries you have the usual retail service establishments there for a city of your size?

A. Yes.

Q. Now, Oskaloosa is located on what highway?

A. Well, it is 92 and 163. 92 is the east and west highway, and 163 is the north and south primary highway.

Q. And have you had experience in shipping your products outbound by the Rock Island Motor Transit Company?

A. Yes.

Q. And how long have you been with the Ideal Manufacturing Company?

A. About four years, four or five years.

Q. Do you have duties in helping direct or observing the traffic moving in and out of your place?

A. Yes.

Q. Does that come under your duties as Auditor?

A. Yes.

Q. First, do you have any inbound shipments coming into your plant from out of State points?

A. Yes.

Q. In less truckload or truckload quantities?

A. Both.

Q. And how have those shipments been moving? What companies handle those?

A. The Rock Island handles some, Western Transportation, P. & W., Watson, and Bruce, or did I mention that, [fol. 1452] occasionally, and the Burlington Motor. The major ones, I would say, are the Rock Island Motor, Western Transportation and the Burlington are the three major truckers on incoming shipments.

Q. And where do those shipments primarily come from?

A. Chicago, Kansas City, St. Louis, that is those general areas, are probably the major points of supply.

Q. Now, the Bruce Motor Freight, that is a St. Louis, Des Moines, Minneapolis operator, is it not?

A. That is right.

Q. And does that firm bring in your St. Louis shipments?

A. Most of the St. Louis stuff is carload lots by rail.

Q. Well, now——

A. Bruce doesn't bring in very much.

Q. I see. Now, does the Rock Island Motor Transit Company have an agent at Oskaloosa, and a station there, a terminal?

A. Yes. Millstrand is the agent, and they have a terminal.

Q. Do they have pick-up and delivery service there?

A. Yes.

Q. Do any of the other trucking companies have the same facilities that the Rock Island Motor Transit Company has in the way of a terminal agent, pick-up and delivery service, or do they operate through some local cartage firm?

A. The Burligton, I think, has a separate organization. They make special pick-ups. The rest of them are all handled through the Oskaloosa Bus and Transfer Company.

[fol. 1453] Q. That is a local dray line?

A. That is right.

Q. They don't have an agent or terminal of their own, or rate information, and things of that sort?

A. That is correct.

Q. Now, prior to August 1, 1951, state whether or not your company has been using the facilities of the Rock Island Motor Transit Company for both inbound and outbound shipments in truckload quantities.

A. We would have had some, we might have had some, and probably did have some incoming truckload quantities, but outbound truckload quantities would be occasionally.

Q. But you did use the Rock Island Motor Transit Company for that service prior to August 1, 1951?

A. We would have if the occasion demands. I don't know specifically that we did. We probably did. I would have to check the records to know that.

Q. Has your company, since the time you have been with it, you have been using the service of the Rock Island Motor Transit Company for both inbound and outbound shipments?

A. Yes.

Q. In interstate commerce?

A. Yes.

Q. Now, where are your outbound shipments, where are they destined?

[fol. 1454] A. We ship almost everywhere in the United States and Canada.

Q. And are you presently using the services of the Rock Island Motor Transit Company for your outbound shipments?

A. Yes.

Q. And with what regularity do you use the services of the Rock Island Motor Transit Company?

A. Every day.

Q. And do those shipments move in through the Chicago area or Omaha area, and other points like that?

A. Outbound?

Q. Yes.

A. Well, yes. I don't know whether I should be more specific or not. We have a particular type of shipment where we prefer the Rock Island Motor to any other. Now, it may or may not include the points you mentioned.

Q. Can you give us certain out of State shipments where you prefer the Rock Island Motor service?

A. Well, southwest shipments we ship to Kansas City quite often, and route them on from there, or if the Rock Island can handle it all of the way. We do the same thing to Omaha and Denver, from there on.

Q. You route them Rock Island Motor?

A. Rock Island Motor out of here, and sometimes we know and designate the delivering carriers, and sometimes we do not where it isn't a Rock Island Motor service. We [fol. 1455] do the same thing to Chicago to a lesser degree.

Q. Do any of those shipments exceed five thousand pounds, would they exceed five thousand pounds in weight?

A. It might, but it is comparatively rare. Minneapolis is another town, of course, out of State we ship to.

Q. Where you specify and use the Rock Island Motor Transit Company?

A. Yes.

Q. And you say you use that company exclusively for shipments through the Kansas City gateway, the Omaha gateway, the Chicago gateway, and the Minneapolis gateway?

A. Not exclusively. We favor them. Quite often the routing will be specified by the consignee, and he may or may not specify. We do favor the Rock Island.

Q. Why do you favor the Rock Island Motor Transit for your shipments?

A. Because they give us excellent local service. They follow up on shipments very well, and we have been very pleased with them throughout the years.

Q. Now, has your company's business been expanding over the past years you have been there? Have you increased your business in volume?

A. Not from the standpoint of territory covered, no.

Q. I mean so far as the volume of business in the territory covered.

[fol. 1456] A. That would require qualifications or an explanation. We used to have plants in Des Moines. Two years ago we consolidated everything in Oskaloosa, so there has been both a growth in the total, but a very large growth in Oskaloosa by consolidating the two plants here with the one that was formerly here.

Q. And I will ask you whether or not that consolidation at Oskaloosa was done in contemplation of the type and character of service that you had for transportation in and out of Oskaloosa?

A. It is vital to us.

Q. And at the time that consolidation was made, state what the fact is as to whether or not the Rock Island Motor Transit Company wasn't giving you a complete service in truckload service as well as less than truckload service?

A. I can't authoritatively state what the truckload situation was in Oskaloosa before two years ago. I moved there then.

Q. I see.

A. We probably did not do very much truckload business prior to two years ago.

Q. I see. I will put it this way, and say transportation service was vital at the time you consolidated your operations at Oskaloosa?

A. That is correct.

Q. And I will ask you if you didn't have a complete service in all directions out of Oskaloosa you would have consolidated your plant in Oskaloosa?

A. It certainly would have been a determinant factor.

[fol. 1457] Q. What?

A. It certainly would have been a determinant factor if we hadn't had complete service.

Q. And do you know whether or not it is a fact that the Rock Island Motor Transit Company has established a terminal and agent at Oskaloosa after your company opened up its consolidated plant?

A. I know they have had a terminal since we moved there. Whether they had one before, I don't know.

Q. I see. What effect would it have upon your company's business in and out of Oskaloosa in the event the operations of the Rock Island Motor Transit Company were terminated or materially reduced?

A. We have a daily service back and forth to Davenport, which is very important to us, and which the Rock Island Motor handles very satisfactorily. It would be a very great handicap to us if that were terminated. The Rock Island Motor is our best, probably our best supplier to Kansas City where we ship regularly. It is our best sup-

plier for local deliveries west of Des Moines, of whom we have shipped a considerable number. I would say in those three situations, particularly Davenport and the local hauls west of Des Moines, the loss of the Rock Island's service would be a very severe handicap.

Q. And do you know of any transportation agency that [fol. 1458] would take the place and give to your company the same type of service that the Rock Island Motor Transit Company has been giving from Oskaloosa to Davenport and the Tri-City area?

A. I know of no such substitute there. They are our best service, I believe, from Oskaloosa to Des Moines, and, of course, west of Des Moines. It means we don't have to transfer, so I know of no substitute service there. There is a substitute service which is very nearly as good to Kansas City. There is a substitute service to Minneapolis which is not as good so far as I am concerned.

Q. I am taking into consideration all of the service which the Rock Island Motor Transit Company has given you in regard to time in transit, servicing of claims, tracing of shipments, the agent, the rate facilities, and things of that character. Is there any carrier that has given you the same type of service in and out of Oskaloosa the Rock Island has been giving since you have been with the company there to the various points the Rock Island serves?

A. There is none that gives us the service to the points we are using the Rock Island Motor that could replace it.

Mr. Nolan: That is all, thank you. You may cross-examine.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Bradshaw:

Q. On your inbound goods do you use the Rock Island Motor Transit and the Western Transportation Company [fol. 1459] from Chicago?

A. Yes, that is correct.

Q. Anybody else from Chicago?

A. Not voluntarily, no. They are the only two.

Q. Anybody else?

A. We would never specify anybody else.

Q. Would you use anybody else voluntarily or involuntarily?

A. If a shipment comes in from some other source.

Q. Well, name the carrier.

A. Hawkeye, Watson. Those are the only ones I believe into Oskaloosa.

Q. Now, from St. Louis I take it you use Bruce and Watson?

A. Yes. You understand most of our shipments from the St. Louis area come in by freight car. It would be Watson probably, or P. & W., or Bruce.

Q. Do you know of any other carriers serving Oskaloosa from the——

A. St. Louis area?

Q. The St. Louis area?

A. Not unless it is contract haulers.

Q. And where does the Burlington Motors fit into this picture?

A. They have service to Des Moines, and they have services to Ottumwa, Omaha, Kansas City.

Q. Those are the only points that you have inbound traffic from?

A. Oh, no. No, we have materials from, we get steel from wherever we can get it, for instance.

[fol. 1460] Q. What carriers bring your steel?

A. It is primarily carload.

Q. Rail carload?

A. Yes, we get cars on a rail carload basis.

Q. Do you get any other inbound shipments we haven't mentioned here today?

A. By carrier you mean?

Q. Either by rail or by carriers.

A. You mean transportation companies. It would be rare, very rare. I think Keeshin has once a week service in Oskaloosa.

Q. From what point?

A. Probably from Marshalltown. I am not sure.

Q. Now, on your outbound you mentioned that you use the Rock Island but there were substitute carriers, I believe you called them substitute, go to Kansas City. Will you name these substitutes?

A. Burlington, also Hawkeye-Churchill, which is not satisfactory so far as we are concerned.

Q. Just answer the question, are there any other carriers from Kansas City, either rail or motor carriers?

A. Watson will take a shipment for anywhere.

Q. And what service do you have from Oskaloosa to Minneapolis, whether you avail yourself of it or not?

A. M. & St. L. Railroad, Bruce Motor, Rock Island Motor, and Rock Island Rail. Is that four? I think that is it.

[fol. 1461] Q. I believe you stated you seldom have shipments of over five thousand pounds going out, is that correct?

A. Individual shipments above that are comparatively rare, except carload. We ship more than that every day but it is small units.

Q. Your carload goes by rail?

A. That is right. I suppose a truckload, maybe, once a week.

Q. And who would you designate on that?

A. That is, that is to Chicago, and it is specified by the person who orders that. That is Western.

Q. They specify?

A. They specify Western Transportation.

Q. And that is the way you ship it?

A. That is right.

Mr. Bradshaw: I believe that is all.

Mr. Nolan: Just a couple more questions, Mr. Thomas.

Redirect-examination.

By Mr. Nolan:

Q. In regard to the service by Watson Bros., state whether or not that company prefers volume or larger shipments rather than so-called small shipments, if you have any knowledge on that.

A. I really have no knowledge. It is my personal experience.

Mr. Bradshaw: Well, just a mimute.

Mr. Nolan: He has got a right to tell about his personal experience.

[fol. 1462] Mr. Bradshaw: Just answer his questions.

By Mr. Nolan:

Q. Do you have any personal experience on which you gained knowledge?

A. No, whether they will take large shipments or small shipments, they have never told me about that.

Q. Now, in regard to the service into Kansas City, you called the Hawkeye and Churchill. It was an interline between the Hawkeye of Cedar Rapids, hauling your merchandise to Ottumwa, and interlining with the Churchill Truck Line from Chillicothe, Missouri, to Kansas City.

A. I don't know. From time to time we have had customers who have specified that service.

Q. You know that would be a two line haul, do you not?

A. I am sure it would be.

Q. You know the Hawkeye Motor Freight, that is a concern in Cedar Rapids that operates between Chicago and Cedar Rapids?

Mr. Bradshaw: Now, just a minute. Let the witness testify as to the question.

Mr. Nolan: I am just expediting it.

A. I am no authority on it. We use it so seldom I could not say with authority. I can say with authority it is not as fast as the Burlington or Rock Island Motor.

By Mr. Nolan:

Q. The point I am trying to make, Mr. Thomas, is when you spoke of Hawkeye-Churchill, you meant, did you not, that was a two line operation?

[fol. 1463] A. That is right.

Q. And when you referred to Hawkeye-Churchill, that was the Hawkeye Motor Freight of Cedar Rapids interlining with the Churchill Truck Lines of Chillicothe, Missouri, from Ottumwa on into Kansas City?

A. I don't know Chillicothe. It is the two carriers.

Q. You don't know Chillicothe or Kankakee?

A. No.

Mr. Nolan: That is all.

Mr. Bradshaw: That is all.
Exam. Carpenter: You are excused.
Mr. Nolan: That you, Mr. Thomas.

(Witness excused.)

L. L. JOHNSON was sworn and testified as follows:

Direct-examination.

By Mr. Nolan:

Q. Will you give us your name, place of residence and occupation?

A. L. L. Johnson, Cedar Rapids, Iowa, General Manager of the Harper & McIntire Company.

Q. Will you tell us the business of the Harper & McIntire Company?

A. The distribution of wholesale hardware, heavy and shelf hardware.

Q. And what do you mean by "heavy hardware", Mr. Johnson?

[fol. 1464] A. Oh, such things as nails, barb wire fence sheets, fence posts, commonly known as merchant trade products.

Q. And does that include roofing materials?

A. Corrugated roofing, felt base roofing, etc.

Q. And when you refer to "shelf hardware", nuts, bolts, and things like that?

A. Nuts and bolts, tools, household wares, electric appliances.

Q. And have you been using the Rock Island Motor Transit Company's service in your distribution of those products in the territory involved in this proceeding?

A. Quite extensively, yes.

Q. And has that service been a satisfactory service to the H & W Motor Express Company—I will withdraw that. Has that service been satisfactory?

A. It has.

Q. I will eliminate that H & W. Now, insofar as this proceeding is concerned, Mr. Johnson, what shipments

would you have occasion to use the Rock Isl. ' Motor Transit Company's service?

A. In so far as interstate commerce?

Q. Interstate shipments.

A. We ship steel products on a direct shipment basis from the mill to our customers along this line, as well as to other points in Iowa, primarily from South Chicago, Illinois, and presently it is impossible for us to ship because of the difference in rates between less truckload and truck-
[fol. 1465] load to the points along Highway 6. There are occasions when contract carriers haul merchandise into these points, but it is impossible for us to work with any regular scheduled carrier on that basis.

Q. Why is that?

A. Because service isn't available to these points.

Q. You mean other than by the Rock Island Motor Transit Company?

A. That is right.

Q. Now, when you say you have customers at the points along U. S. Highway No. 6, are you referring to practically all of the small towns?

A. Virtually every one of them. The majority of the towns represented in this case are served out of our Cedar Rapids house, wherein a few that are served from our Ottumwa house. We also have a house in Ottumwa.

Q. What about the overhead shipments from Chicago or out of State points of origin, where you have shipments direct to your customers, do those customers get their shipments from out of State points?

A. Yes. However, that would largely be confined to truckload shipments because it is uneconomical to purchase that type of material in anything other than truckloads.

Q. And prior to the restriction imposed on the Rock Island Motor Transit Company in regard to the volume of shipment, did your company use their service for these out of State shipments into these small towns?

[fol. 1466] A. Yes, we did.

Q. And was that service satisfactory?

A. Yes, sir.

Q. What has been the effect on your company since the restrictions have been imposed on the Rock Island Motor Transit Company with respect to these volume shipments?

A. In most cases we simply lost a portion of that business. It means that a small dealer, whose requirements might be for a truckload, is forced to buy a carload less frequently, and, as a result, there isn't as much business available based on the normal way that type of dealer does his business. As a general rule he buys his business between two or three jobbers.

Q. And has your company lost business by reason of that restriction?

A. It is my considered judgment we have, yes.

Q. State whether or not if the Rock Island Motor Transit Company were permitted to give the same type of service, both in volume that it did prior to August 1, 1951, would your company be able to reclaim some of their business and use the service of the Rock Island Motor Transit Company for that service?

A. Yes, we would.

Q. Now, how long have you been connected with the company in Cedar Rapids?

A. Twenty-five years.

Q. And since the time that the Rock Island Motor Transit [fol. 1467] Company has been in business, has your company used its service?

A. From the inception of their service, yes.

Q. And you have, do you not, available at Cedar Rapids the terminal facilities of the Rock Island Motor Transit Company?

A. Yes.

Q. Which includes the rate service, tracing, claims, etc.?

A. Yes.

Q. Then, as I understand your answers your company has been affected by the limitations placed on the operations of the Rock Island Motor Transit Company?

A. We have, yes.

Q And what is the fact as to whether or not your company would be further adversely affected if the Rock Island Motor Transit Company was required to terminate its operations or substantially further reduce its operations as they are now conducted?

A. Well, it would affect us quite seriously. There are a number of distributors of hardware in the State of Iowa,

as well as out of State distributors, and about all a hardware distributor has to sell is service. When he fails to render service he has no excuse to be in business.

Mr. Bradshaw: Interstate?
Mr. Nolan: Interstate, yes, interstate.

By Mr. Nolan:

Q. You also use the Rock Island Motor Transit Company, do you not, in intra or Iowa State commerce?
A. That is right.
[fol. 1468] Q. You are using it extensively, isn't that correct?
A. That is right.

Mr. Nolan: That is all I believe. You may cross-examine.
Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Bradshaw:

Q. Well, let me clear up this point. A minute ago when you said you would be affected if they were further restricted, were you referring to intrastate shipments?
A. To shipments within the State, yes.
Q. In other words, those are shipments that come out of Cedar Rapids?
A. That is right.
Q. And go to these towns. It doesn't have anything to do with interstate commerce, does it?
A. Not interstate, no, intrastate.
Q. Yes. Now, then, let's clear this up a little. Give me a specific example of one of these towns where you had an account that you couldn't service out of Chicago with truckload lots, and consequently lost the business, as you say.
A. I don't think I came prepared to do that. I am General Manager. I have a sales manager who handles sales.
Q. You testified, didn't you, that your company lost some business out here?
A. Yes, my Sales Manager told me.
Q. You testified your company lost some business on

[fol. 1469] Highway 6 because they couldn't get shipments, truckload lots out of Chicago. Did you mean to tell us there wasn't transportation available?

A. My Sales Manager told me we couldn't get truckload shipments into certain of these towns, and we were losing business, and he wanted us to get service down there to them.

Q. You have no personal knowledge of that?

A. I have no personal knowledge of that. I have the say so of my Sales Manager.

Q. Is your Sales Manager going to be here as a witness?

A. I think he can.

Q. What is his name?

A. D. S. Beck.

Q. Do you know the names of any of these towns along Highway 6 you were describing a moment ago when Mr. Nolan was examining you?

A. Where we formerly shipped truckloads?

Q. Yes.

A. Kalona, Ladora, and formerly Wellman.

Q. Those are the only three you know of?

A. Those are the only three I recall.

Q. And do you know whether or not there is any transportation available, other than the Rock Island Motor Transit Company, from Chicago to any of those three points?

A. No, I don't.

[fol. 1470] Q. Have you ever had occasion to make any investigation?

A. Not personally.

Q. Then when you so testified a while ago, it was strictly on a hearsay basis?

Mr. Nolan: Just a minute. That is objected to as argumentative. This man is testifying as General Manager, and, as General Manager he can only know the details of his operation as reported to him by his subordinates or his representatives. To trace down in a minuteness of detail everything that transpired, he would have to bring in one hundred witnesses from his company.

Mr. Bradshaw: These details are not very minute. A man has testified.

A. Pardon.

By Exam. Carpenter:

Q. You obtained the information in the normal course of business?

A. Yes, sir.

Q. From the Sales Manager?

A. Yes, sir.

Exam. Carpenter: Objection sustained.

By Mr. Bradshaw:

Q. Did you inquire of the Sales Manager as to any specific accounts that were lost by this concern, or was this a general statement by him?

A. General discussion. As a normal thing when you lose a certain dollar volume of sales, you ask your Sales Manager what happened, and I am telling you in a general way [fol. 1471] what his general answer was to me.

Q. His excuse was transportation was not available, is that right?

A. Yes.

Mr. Bradshaw: That is all.

Redirect-examination.

By Mr. Nolan:

Q. Mr. Johnson, you know of your own personal knowledge that the towns of Kalona and Wellman are off-route points, so far as Highway 6 is concerned, that is true?

A. That is right.

Q. And they are isolated, so far as highway traffic is concerned, by motor trucks, is that true?

A. That is right.

Q. And you no doubt are acquainted with the accounts in Kalona and Wellman, are you not?

A. The accounts we now sell, yes.

Q. Yes, and also at Ladora, and are you able to state for the record those names of these accounts in Kalona and Wellman?

A. In Kalona, the Snair Hardware; and in Wellman, the Wellman Implement Company, R. E. Snavely; and in Ladora, the Ladora Hardware.

Mr. Nolan: That is all.

Exam. Carpenter: Any recross?

Mr. Nolan: That is all, Mr. Johnson. Thank you.

(Witness excused.)

[fol. 1472]

HAROLD F. EWOLDT was sworn and testified as follows:

Direct-examination.

By Mr. Nolan:

Q. Your name is——

A. Harold F. Ewoldt.

Q. Harold F. Ewoldt?

A. Right.

Q. And how do you spell your last name?

A. E-w-o-l-d-t.

Q. You are the Manager of the Traffic Bureau of the Cedar Rapids Chamber of Commerce?

A. That is correct.

Q. Is that right? How long have you been so engaged?

A. It will be a year and two months.

Q. And were you associated with the Traffic Bureau prior to that?

A. Yes, I have been with it since 1948.

Q. 1948. What does the Traffic Bureau consist of?

A. It is set up for the purpose of giving daily assistance to the firms of Cedar Rapids with reference to rates, traffic and transportation problems, routings, etc.

Q. Now, tell us what is the size of the City of Cedar Rapids?

A. Seventy-two thousand.

Q. Seventy-two thousand?

A. Yes, sir.

Q. And what are the major industries in Cedar Rapids?

[fol. 1473] A. Wilson & Company, Quaker Oats, the heavy

machinery companies such as La Plant-Choate Manufacturing Company, Universal Engineering, Link Belt Speeder Corp., National Oats, Quaker Oats, they are two separate firms. In addition to that you have the wholesale distribution houses, such as Welch-Cook-Beals, such as dry goods, Harper & McIntire, which is hardware, McKesson & Robbins, drugs and medicines. I believe that is the bulk of them. You have smaller firms.

Mr. Howland: Collins Radios.

A. Pardon me. I shouldn't have overlooked the Collins Radios.

By Mr. Nolan:

Q. What is that dairy supply manufacturer?

A. Cherry-Burrell.

Q. And you have Dearborn Brass Company?

A. Yes. They come under the smaller industries.

Q. Now, Wilson & Company, that is, of course, that is one of the plants of Wilson & Company, packing company?

A. That is correct.

Q. And what they pack, meats there of different kinds?

A. Mmmmhuh.

Q. Now, Mr. Ewoldt, since you have been in Cedar Rapids, have you been acquainted with the services of the Rock Island Motor Transit Company in and out of Cedar Rapids?

A. I have.

Q. And, so far as you know, have those services been satisfactory to your shippers there in the territory served?

[fol. 1474] A. Very satisfactory.

Q. Now, you understand, of course, that this application embraces only interstate operations of the Rock Island Motor Transit Company?

A. That is correct.

Q. Including Cedar Rapids and U. S. Highway No. 6, Omaha to Chicago. Now, does the curtailment of service of the Rock Island Motor Transit Company from Cedar Rapids along that route, or would the elimination of its service affect Cedar Rapids, and if so, in what way?

A. You are speaking on interstate?

Q. On an interstate basis, yes, primarily.

A. Well, it would affect us in this way. A carrier has to have the overhead freight into those towns in order to partially subsidize the loss they incur on the small, local hauls. If they don't have the longer haul revenue, they won't have the revenues to subsidize any possible losses they will have on the small hauls. In that way they will be forced to curtail the shorter haul traffic.

Q. And the local service?

A. That is right.

Q. Now, do you have firms in Cedar Rapids which have so-called overhead shipments from factory to destination, that is wholesale firms, jobbing firms, that might have an order filled in Chicago destined to one of these small towns [fol. 1475] along the route here?

A. It is very possible, yes.

Q. Have you had experience with such type of shipments by some of your wholesalers and jobbers in Cedar Rapids?

A. Not actual experience. I could not say anything specific.

Q. But, knowing the jobbing and wholesale operations in general, is such type of service handled by jobbing firms where they do not have the supply on hand, and fill the order from another source of supply, which may be shipped from an out of State point?

A. Yes, that is correct.

Q. That is a general thing, is it not, in the jobbing and wholesale business?

A. Yes.

Q. But you say your primary interest in appearing here is to protect the shipping interests of Cedar Rapids by urging the maintenance of the overhead shipments in order to insure the local service, is that correct?

A. That is correct, yes, sir.

Q. Now, are there firms in Cedar Rapids which have shipments destined to points such as Omaha, Kansas City and the Tri-Cities?

A. Oh, yes, any number of them.

Q. And do you know whether or not the Rock Island Motor Transit Company has been handling their traffic, or some of their traffic?

[fol. 1476] A. You mean prior to the restriction?

Q. Yes.

A. Yes, they have.

Q. And do you know whether they are now handling part of their traffic with the restriction of five thousand pounds?

A. There have been instances where they have split up their bill of lading, in other words, make two bills of lading in an effort to give the Rock Island the haul, but as a rule they have to forego the Rock Island's service due to the restriction, and accept another service which, in many instances, was not as acceptable to them as they would be if they could have used Rock Island Motor.

Q. I was going to get to that a little later, but the point I was trying to make, are there shipments that move between Cedar Rapids, either inbound or outbound, on the one hand, and Omaha, Kansas City and the Tri-Cities, on the other, of less than five thousand pounds?

A. Oh, yes.

Q. And would you say there is a regular flow of such traffic between Cedar Rapids, on the one hand, and those interstate points, on the other?

A. Oh, very much.

Q. And how about Chicago?

A. There is a considerable movement between Chicago and Cedar Rapids.

[fol. 1477] Q. And does the Rock Island Motor Transit Company handle, has it handled part of that traffic?

A. Oh, yes.

Q. Now, do you have shippers in Cedar Rapids, or receivers of freight who, so far as you personally know, specify and designate the Rock Island Motor Transit Company as a carrier on these interstate shipments moving between Cedar Rapids, on the one hand, and, on the other, such points as Omaha, Kansas City, the Tri-City area, and Chicago?

A. Yes, they do.

Q. And do you know why they so specify and request such service?

A. It can only be for one reason, they are satisfied with the service. That is the only thing the carrier has got to sell them is the service, and if they are used by a shipper, it means their service is satisfactory in preference to other carriers.

Q. Now, you were speaking a minute ago about shipments in excess of five thousand pounds. Have you had called to your attention in your duties, in the regular course of your work as Manager of the Traffic Bureau of the Cedar Rapids Chamber of Commerce, of shippers in Cedar Rapids who have split volume shipments so they could be shipped under the five thousand-pound limitation of the Rock Island Motor Transit Company?

A. Yes, I have.

Q. And have shippers consulted with you about that matter?

A. Yes, they have.

[fol. 1478] Q. And have they consulted with your office about getting rates on such shipments?

A. Yes, they have.

Q. And why did they split their shipments, which would cost them more, to ship by the Rock Island Motor then they could ship the volume shipment by some other carrier?

A. Because they believe that the service which would be rendered to them by the Rock Island Motor would be preferable to shipping by another line at a reduced rate. In other words, the value of the service outweighed the increased rate they would have to pay.

Q. Now, you do have a substantial number of motor carriers operating between, I mean in and out of Cedar Rapids from such points as Chicago, the Tri-Cities, and Omaha, do you not?

A. That is right.

Q. And how about between Cedar Rapids and Kansas City, do you have any other carriers?

A. Yes, you have got Bos Freight Lines operating between Cedar Rapids and Kansas City.

Q. Is that on a scheduled operation, or merely where they have loads?

A. That is on a scheduled operation. You have got Merchants Motor which operates between Cedar Rapids and Kansas City, but their operation is very unsatisfactory because it has to go through the St. Louis terminal, and then over to Kansas City.

[fol. 1479] Q. That would be very circuitous, would it not?

A. Yes, sir.

Q. Now, what has been your experience in so far as you have observed in the regular course of your duties as Traffic Manager, in regard to the handling of claims and tracing of shipments with the Rock Island Motor Transit Company as compared with other carriers?

A. It has been good.

Q. And how about with other carriers; have you had complaints?

A. I receive quite a few complaints during the course of the week regarding claims handled by other carriers.

Mr. Bradshaw: Is this restricted to the application?

By Mr. Nolan:

Q. On shipments moving in interstate commerce in the territory involved in this application or over the route in order to get to destination, is that right?

A. Yes.

Q. Now, Mr. Ewoldt, state whether or not in your opinion the shipping, wholesaling and jobbing interests of Cedar Rapids would be materially affected if the service of the Rock Island Motor Transit Company were either eliminated or materially and substantially reduced.

A. In my opinion I believe they would be affected.

Q. And do you know of any other transportation agency that gives the same quality and type of service as the Rock Island Motor Transit Company does to the points [fol. 1480] served by the Rock Island Motor Transit Company in and out of Cedar Rapids?

A. There may be some that give as good a service, but I would say there is none that give any better service than the Rock Island Motor Transit Company.

Q. You say some would give as good a service. That would be between points like Cedar Rapids and Chicago?

A. Yes, key points there, where the service is fairly comparable.

Q. Yes, and how about between Cedar Rapids and Kansas City?

A. As I mentioned, we only have one carrier, to my knowledge, that gives a scheduled service. The other carrier has to go through St. Louis, which is not satisfactory.

Q. And have you observed recently, Mr. Ewoldt, that carriers who are serving Cedar Rapids prefer, and do primarily give an overhead service between key points rather than local delivery to small points?

A. Yes, it seems to be a tendency to more and more neglect the short line points. They are concentrating more on key points, where the revenue is the greatest and where their handling costs will be the least.

Q. And state what the fact is as to whether or not those restrictions of operation on the average over-the-road carrier are brought about by economic conditions, labor costs, operating costs, and things of that character, or have you made any investigation of that?

A. I don't think I can answer that question properly.

[fol. 1481] Q. I will ask you whether or not you have observed any tendency on the part of the Rock Island Motor Transit Company to curtail its local service to small points?

A. I can answer definitely no there.

Q. There hasn't been any tendency. I will ask you further, Mr. Ewoldt, whether or not the Rock Island Motor Transit Company in its operations has been operating strictly as a motor carrier independent of the Rock Island Railroad, the parent company?

A. In my opinion they have.

Q. And in your opinion, I mean in your work do you find it participates in the motor carrier tariffs and performs motor carrier service independent of the railroad?

A. Yes.

Q. And it is operating the same as any other motor carrier?

A. In my opinion it has, yes.

Q. I mean have you observed anything where there is any influence or domination by the Rock Island Railroad in its operations so far as you have observed in Cedar Rapids?

A. Not so far as I have observed.

Q. Have you had any complaints come to you in that respect?

A. None.

Mr. Nolan: I believe that is all.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Bradshaw:

Q. Have you had any occasion to observe the operations [fol. 1482] between the Rock Island Railroad and the Rock Island Motor Transit?

A. Personally, no.

Q. Then you don't have a personal knowledge of the information you are just testifying to?

A. No personal knowledge.

Q. Give me the carriers, both rail and truck, that operate between Chicago and Cedar Rapids, other than the Rock Island.

A. How long a time do I have?

Q. Well, we have wasted quite a bit on the Rock Island. Let's waste it on the others.

Mr. Nolan: We will concede for the sake of brevity there would be at least fifteen.

By Mr. Bradshaw:

Q. Do you want to say there is at least fifteen common carriers that operate?

A. That go in and out of Cedar Rapids and have rights between Chicago and Cedar Rapids?

Q. And approximately how many are there, then?

A. I would concede there are at least fifteen or sixteen.

Q. Then, you have a pretty substantial service from a common carrier basis between Chicago and Cedar Rapids, is that right?

A. That is correct.

Q. And you have got only two other carriers besides the Rock Island you know of operating to Kansas City?

A. That are giving service to Kansas City, yes.

[fol. 1483] Q. And how many to Omaha?

A. Well, you have got Merchants Motor that handle their Omaha operation via St. Louis.

Q. Just the names.

A. You have Union Freightways. That is the only truck lines I can think of.

Q. What rails have you coming into Cedar Rapids from Chicago?

A. From Chicago you have the I. C., Rock Island, North Western, and the Milwaukee.

Q. And what rail service do you have between Cedar Rapids and Kansas City?

A. You have the Rock Island and the Milwaukee.

Q. Is there a rail freight service in conjunction with that?

A. What do you mean?

Q. Does the Rock Island Railroad haul freight?

A. Yes.

Mr. Howland: You mean less than carloads?

By Mr. Bradshaw:

Q. Does it haul L. C. L.?

A. So far as I know it does. It must because we route freight via the Rock Island Railroad at times.

Q. To Kansas City?

A. Yes.

Q. And what is the rail service to Omaha?

A. L. C. L. or carloads?

Q. My question was intended to be, do you have freight [fol. 1484] service on L. C. L. shipments by rail to Omaha?

A. Well, you have got the Rock Island Railroad going into Omaha. You have got the I. C. going into Omaha. You have got the Milwaukee going into Omaha. You have got the North Western going into Omaha.

Mr. Bradshaw: I believe that is all.

Exam. Carpenter: Redirect.

Redirect-examination.

By Mr. Howland:

Q. On this Cedar Rapids-Omaha service, the North Western is the only direct line between Cedar Rapids and Omaha, is it not, the main continuous line?

A. Well, let's see.

Q. Let me ask it this way. The Rock Island route between

Cedar Rapids and Omaha is by way of West Liberty, with the junction of the line through Davenport to Des Moines and into Omaha?

A. Yes. The Milwaukee freight has to go up to Marion and on to the main line. The I. C. freight has to go up to Manchester and on to the main line.

Q. And that is about a ten mile haul in the case of the Milwaukee Road, or a little less, and about forty miles in the case of the Illinois Central to reach the main line?

A. Yes, that is right.

Q. The North Western main line does go direct through Cedar Rapids?

A. Yes, direct from Cedar Rapids to Omaha.

[fol. 1485] Q. West Liberty is about forty miles south and east of Cedar Rapids, and that is the junction between the Rock Island's east and west line?

A. Yes.

Q. And the north and south line of the Rock Island which serves Cedar Rapids?

A. That is correct.

Exam. Carpenter: Recross.

Mr. Bradshaw: That is all.

Exam. Carpenter: You are excused and off the record.

(Witness excused.)

(Statements off the record.)

O. E. SCHAEFER was sworn and testified as follows:

Direct-examination.

By Mr. Howland:

Q. Mr. Schaefer, your name is spelled how?

A. S-c-h-a-e-f-e-r.

Q. And your initials?

A. O. E.

Q. And you are the Rock Island Motor Transit's Terminal Agent in Cedar Rapids?

A. Yes, sir.

Q. How long have you been located there?

A. About five years.

Q. What experience did you have before being employed there?

[fol. 1486] A. I was Terminal Agent at Mason City for the Rock Island Motor prior to transferring to Cedar Rapids.

Q. Now, what facilities does the Rock Island Motor Transit Company have at Cedar Rapids?

A. Pick-up and delivery, dock, rating, general routine.

Q. What facilities the Rock Island Motor Transit Company has at Cedar Rapids are located in the Rock Island Freight House and used under lease with the Rock Island Railroad?

A. Yes, sir.

Q. All right. Now, about what size dock, platform space, do you have there?

A. I believe we have a frontage of five doors.

Q. And do you have a rate clerk, and tariffs, and matters of that sort?

A. Yes.

Q. How many employees do you have there altogether, office and dock?

A. I believe it runs eighteen to twenty.

Q. Eighteen to twenty?

A. Yes.

Q. And that is exclusive, or does that include your over-the-road drivers?

A. No, sir, that is exclusive.

Q. Exclusive of over-the-road drivers. What pick-up trucks do you have?

[fol. 1487] A. We have five.

Q. Do you perform a pick-up and delivery service for the Rock Island Railroad?

A. No, sir.

Q. Freight in Cedar Rapids?

A. No, sir.

Q. Do you solicit business for the Rock Island Railroad?

A. Do I?

Q. Yes.

A. No, sir.

Q. And what runs do you dispatch from Cedar Rapids, and what are their terminal points?

A. Well, we have three trailers from Cedar Rapids to Des Moines. We have two from Cedar Rapids to Davenport and one daily, Cedar Rapids to Chicago.

Q. That is by way of Iowa City and Davenport?

A. Yes, and one to Oelwein, and one to Decorah.

Q. The Oelwein and Decorah are beyond the scope of this application?

A. Yes.

Q. That is a service limited to the transportation of rail freight?

A. Yes, that is strictly a rail freight operation.

Q. Do you have any runs going south through Iowa City?

A. Yes, we go through Iowa City to Ottumwa.

Q. And that is a daily except Saturday and Sunday operation?

[fol. 1488] A. Yes, sir.

Q. Now, at one time you had service direct from Cedar Rapids to Omaha, I believe, or Omaha to Cedar Rapids. Do you still operate that?

A. No, sir, that is broke at Des Moines.

Q. That is included in one of the Des Moines trucks?

A. Yes, sir.

Q. Omaha-Cedar Rapids business or Cedar Rapids-Omaha business would be placed in one of these Des Moines runs?

A. Yes, sir.

Q. Was that operated until, that Cedar Rapids-Omaha through run, was that operated until about August, 1951?

A. No, sir, it was curtailed before that.

Q. About how long before that?

A. About four years, I believe it was, if I remember correctly.

Mr. Howland: You may cross-examine.

Cross-examination.

By Mr. Bradshaw:

Q. Where is your terminal?

A. 201 5th, Southeast.

Q. Is that in the railroad depot?

A. Yes, sir.

Q. And what sort of a partition do you have there between the rail freight and your freight?

A. Well, there is a runway and a steel wire door separates the two operations there.

[fol. 1489] Q. Now, these three trailers from Cedar Rapids to Des Moines, do they carry both rail and motor freight?

A. The one trailer carries rail and two of them carries motor freight, yes, sir.

Q. Is that always the balance, or is there sometimes a different balance than that?

A. I don't understand your question.

Q. Is there always one trailer with rail?

A. No, sir.

Q. Or might it be mixed more than that?

A. If one of the trailers has room, we move it.

Q. You move it?

A. Yes, sir.

Q. And is the same true on your trailers moving to Davenport?

A. Yes, sir.

Q. And the trailer moving to Chicago?

A. Yes, sir.

Mr. Bradshaw: I believe that is all.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Howland:

Q. These trailers that you referred to, in fact all of your runs handle both inter and intrastate, or within the State freight, in the same units, do they not?

A. Yes, sir.

Mr. Howland: I think that is all.

[fol. 1490] Exam. Carpenter: Any further cross-examination?

Mr. Bradshaw: No.

Exam. Carpenter: You are excused.

(Witness excused.)

Exam. Carpenter: The hearing is adjourned until tomorrow morning at 9:30 a. m. in the same room.

(At 5 p. m., March 26, 1952, hearing adjourned to 9:30 a. m., March 27, 1952.)

[fol. 1491] TRANSCRIPT OF PROCEEDINGS OF MARCH 27, 1952

Exam. Carpenter: We will come to order, gentlemen. You may proceed, Mr. Howland.

Mr. Howland: Mr. Bagby, will you please come forward and be sworn?

R. W. BAGBY was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, please?

A. R. W. Bagby.

Q. You reside where, Mr. Bagby?

A. Beatrice, Nebraska.

Q. Your business is what?

A. I am traffic manager for Dempster Mill Manufacturing Company.

Q. What is the type and character of the business in which the Dempster Mill Manufacturing Company is engaged?

A. We are manufacturers of implements, agricultural implements, windmills, towers, beams, cylinders, general line of farm supplies; and then we are also jobbers of a complete line of plumbing and heating supplies.

Q. At what places is the Dempster Mill Manufacturing Company operating? That is their manufacturing plants or warehouses or distributing centers?

A. All of our manufacturing is done at Beatrice. We also have warehouses for distribution at Omaha, Des [fol. 1492] Moines, Sioux Falls, Kansas City, Amarillo, Sweetwater and Antonio, Texas.

Q. I take it, then, you distribute your products that you either manufacture or merchandise in a pretty wide area through the middlewestern part of the United States?

A. Well, it includes all the United States; in fact, we have quite an export business too.

Q. About how many people are employed in your company all told?

A. Between six and seven hundred.

Q. Do you have products that are manufactured at Beatrice, Nebraska that you ship into the Iowa territory?

A. Yes, sir.

Q. In what territory in Iowa are such products shipped?

A. Well, we ship to very many points in Iowa. I mean it is a pretty wide coverage.

Q. In your general line of business do you sell direct to the retail merchants or do you sell direct to your consumers?

A. We sell entirely through dealer organizations.

Q. And what is the fact as to whether you have dealers throughout the State of Iowa?

A. Yes, we have dealers, I would say, at most of the towns in Iowa handling our products.

Q. And is that true also of the communities located on or immediately adjacent to U. S. Highway 6 across the State of Iowa and also U. S. Highways 59 and 64 and Highway 83 out in the western part of the state?

[fol. 1493] A. Yes, that is true.

Q. How about the territory up into Audubon or down into Griswold?

A. That is the general coverage. We serve all those towns.

Q. Is there a flow of traffic that is moving from Beatrice into that general territory?

A. Yes.

Q. What service do you customarily use to reach those points in western Iowa and on U. S. Highway 6 across the State of Iowa or adjacent to Highway 6?

A. Well, we use the Rock Island Motor Transit Company and other similar forms of transportation and rail.

Q. With respect to the service of the Rock Island Motor Transit Company, how has that service been with respect

to time in transit, and with respect to other features of the service such as tracing shipments, handling any claims that might arise, or similar matters of that character?

A. We haven't had any complaints on the service, and as far as my knowledge goes the shipments move through in good time.

Q. Now, you say that you use other carriers. Are there points and places on U. S. Highway 6 or adjacent thereto, to intermediate points, that you have had any experience in endeavoring to obtain delivery by any other carrier? Have you had the experience of making a small shipment, say 250 to 300 pounds, to some small intermediate point [fol. 1494] with a population of three, four or five hundred people by other carriers?

A. Well, as I indicated before, we use a lot of carriers——

Q. I understand that.

A. —in distribution, and we handle many shipments to points on Highway 6.

Q. Well, my question was whether you had had any particular experience in tendering a shipment, say, of 300 pounds to some particular carrier destined to a point on U. S. Highway 6 and what your experience had been in obtaining service other than the Rock Island Motor Transit. Have you had that experience?

A. We have had that experience, yes.

Q. What is it? How does the service you have received correspond with that which has been performed by the Rock Island Motor Transit Company?

A. Well, the service has been all right. We haven't had any complaints on it. We use the Rock Island Motor Transit to the points you indicated in the routing guides that they serve, and we use other carriers to other points which they do not serve.

Q. Well, of course, you necessarily require transportation to a great variety of communities.

A. That is right, yes, sir.

Q. Are there points on U. S. Highway No. 6 where you have found by experience or otherwise that the Rock Island Motor Transit Company renders the only regular peddler service to those points?

A. Yes, we have had several points like that.

[fol. 1495] Q. If this Rock Island Motor Transit service to these points across the State of Iowa should be eliminated or the service thereto should be substantially curtailed and cut down, would that have any effect on your business?

A. It most certainly would. It would materially slow down the distribution of our products and hamper our operations.

Q. And would that have an adverse effect on your ability to serve your customers or compete with your competitors who are operating in the same territory?

A. It naturally would, yes.

Q. I take it you have competitors at other points in this midwest territory?

A. Yes, sir.

Q. Who are offering to serve the general type and character of merchandise that the Dempster Mill Manufacturing Company is offering?

A. Yes, we have many such firms competing in the same territory.

Q. Are you informed of the fact that at the present time the Rock Island Motor Transit Company is unable to transport shipments from Omaha into the Tri-Cities of Davenport, Rock Island, and Moline and East Moline, Illinois?

A. Well, I understand there is a strike on.

Q. I am not speaking about the strike. I am speaking about restrictions imposed by the Interstate Commerce Commission to key points.

[fol. 1496] A. No, I was not aware of that. We have used the Rock Island Motor on shipments to us from Chicago and other eastern points, but I don't believe we use them to the Tri-Cities.

Q. Do you ship from the western Illinois territory?

A. Yes, sir.

Q. Do you know how those shipments to your plant at Beatrice from Chicago have been moving?

A. Well, I know some of the shipments have been shipped from Rock Island.

Q. I mean what routing. Has the fact it has been necessary to have an intermediate carrier to perform part of that service had any effect in the transit time from Chicago and eastern points into your Beatrice plant?

A. Yes, it has. We try in all cases to secure a one-line haul if we can. If we can't have a one-line haul, why, then, we have a two-line haul. From some points in Illinois we have to have two and sometimes three-line hauls to Beatrice.

Q. Do you have occasion to make any truckload shipments from your plant at Beatrice or from your warehouses to points in this territory?

A. Occasionally we do, yes, sir.

Q. And were you informed the Rock Island Motor Transit Company has a restriction of 5,000 pounds maximum weight on any one shipment?

A. No, I was not aware of that restriction.

[fol. 1497] Q. Would that restriction affect the needs of your business? That is, would that affect you in your ability to get service if this 5,000-pound restriction continues?

A. It would, yes.

Q. In your business do you need transportation service into this territory for shipments in excess of 5,000 pounds?

A. Yes.

Q. About how frequently do you have occasion to make those shipments in excess of 5,000 pounds into this territory or through this territory in interline?

A. Of course, it depends on seasons. During the spring season our implement movement is heavy; we have quite a diversified line of merchandise. We have known of wind storms which necessitated a movement of windmills or some other item in excess of 5,000 pounds. I would not say it is——

Q. It would not be a daily occurrence, would it?

A. It is not daily, no, but it has happened we have had several during a month.

Exam. Carpenter: Off the record.

(Discussion off the record.)

Exam. Carpenter: On the record.

By Mr. Howland:

Q. Does the Rock Island Motor Transit Company serve Nebraska?

A. Yes, sir.

Mr. Howland: You may cross-examine.

[fol. 1498] Cross-examination.

By Mr. Bradshaw:

Q. Mr. Bagby, the 5,000-pound restriction that Mr. Howland is talking about, you understand, applies only to the Rock Island Motor Transit.

A. Well, I told him I was not aware of the 5,000-pound restriction.

Q. And it hasn't bothered you to date, has it?

A. No.

Q. In other words, you have been able to get these over 5,000-pound shipments moved into this territory in emergencies and when you had to?

A. We have so far, yes.

Q. I take it that you used other carriers than the Rock Island Motor for that purpose?

A. We use practically all carriers.

Mr. Bradshaw: I believe that is all.

Exam. Carpenter: Redirect?

Mr. Howland: Nothing further.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Howland: At this time I would like the record to show that, as requested by Mr. Fowler when Witness Maurer was on the witness stand, that we have produced and delivered to counsel for the protestants a copy of the Minutes of the Meeting of the Industrial Traffic Council of the Chicago Association of Commerce and Industry held [fol. 1499] on March 6, 1952, on page 246 of which appears the Minutes of the Meeting with respect to the application of the Rock Island Motor Transit Company in MC-29130, Sub 70, for hearing beginning March 18, 1952, in Des Moines, Iowa; and we ask that these Minutes be identified as exhibit 18 in this record.

Exam. Carpenter: It will be so identified.

(The Minutes referred to were marked as "Applicant's Exhibit No. 18, Witness Maurer", for identification.)

OFFER IN EVIDENCE

Mr. Howland: We offer exhibit 18 in evidence at this time in connection with previous examination of Witness A. J. Maurer. This is furnished in accordance with the arrangement heretofore made with Mr. Fowler when Mr. Maurer was on the witness stand.

Exam. Carpenter: The document will be received in evidence as exhibit No. 18.

(Applicant's exhibit No. 18, Witness Maurer, was received in evidence.)

Mr. Nolan: Mr. Wegmuller, will you please come forward and be sworn?

JACOB P. WEGMULLER was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you please state your name, residence and occupation?

[fol. 1500] A. Jacob P. Wegmuller, Manager of Barron Motor Supply, Iowa City, Iowa.

Q. How long have you been connected with the Barron Motor Supply?

A. It will be 21 years the 21st of next May.

Q. What is the general nature of the business of your Company?

A. We are wholesalers of automotive parts and equipment along with operating a machine shop, and accessories, of course. It is anything that has to do with the automotive industry.

Q. What retail territory do you serve?

A. My particular branch operates in Johnson County, Scott County, part of Muscatine County, Washington County, Keokuk County, Iowa County, and a little of the county on this side of Iowa County, Poweshiek County.

Q. Then, it would be fair to say you serve a radius of about 50 miles around Iowa City except on the north?

A. We have a little bit better than that, 60 to 65 miles of Iowa City with the exception of on the north.

Q. Your place of business is a branch of Barron Auto Supply Company of Cedar Rapids, Iowa, is it not?

A. That is right.

Q. You have testified before in these proceedings and you are familiar with the service proposed by the Rock Island Motor Transit Company, are you not?

A. Yes, sir.

Q. And which now includes truckload service as well as [fol. 1501] less-than-truckload service. How long has your company been using Rock Island Motor Transit service in Iowa City?

A. We have used it ever since its existence.

Q. Ever since the White Line Motor Freight has been doing business?

A. Yes, sir.

Q. What sort of supplies do you have for servicing your business there?

A. A variety from practically all over the United States. More especially we try to get our merchandise in from close warehouses; for instance, from Omaha via United Motor service, batteries from Minneapolis, welding rods and welding equipment from Chicago; levelers, springs and various other lines from Chicago warehouses; and then of course we have a lot of factory shipments from Detroit, New York, Pennsylvania, some from the Pacific coast.

Q. How about the Kansas City area? Do you get in merchandise from there?

A. Yes; sir, and from the Cities of St. Louis and Springfield.

Q. What are some of the larger items that you have shipped in?

A. Well, when you go to the larger items—let's put it this way—the largest items are units like air compressors, big pieces of equipment, drop shipments both direct to our customers and to us. Of course, we would use railroad on carload lots.

Q. But what I am driving at, do you have shipments [fol. 1502] either into your place of business, or drop shipments to your customers where they come directly from the factory, on shipments that exceed 5,000 pounds?

A. That is not so popular, no, sir. Most of ours would be under 5,000 pounds on drop shipments. That is 2½ tons. Yes, the largest drop shipments would be under 5,000 pounds.

Q. You say you have used the Rock Island Motor Transit service. Is that on inbound shipments?

A. Both. As a matter of fact, right now they are doing us more good, as far as business is concerned, on drop shipments from Iowa City to Wellman, Iowa City to Victor and any of the towns in the area I mentioned by counties where we do business. Right now we are in the process of getting in a carload of merchandise which we will ship out four cases here, six cases here, six cases there and so on. They are a Godsend on shipments like that.

Q. And are those shipments already ordered before you get the merchandise in?

A. Yes. We have it packed already to go, and unload it like that and deliver it.

Q. And in addition to having shipments shipped into your place of business in Iowa City from out of state, you say you have shipments directly to your dealers that don't come through your Iowa City branch?

A. We have shipments delivered like batteries and filters and seasonable items like lubricants for implement dealers [fol. 1503] and such; we have those items delivered in drop shipments from the factory direct to those people.

Q. One of your dealers, say, in Marengo, Iowa, might receive shipments from Minneapolis that might never come through your place of business at Iowa City?

A. That is true. There are many shipments shipped to Marengo which do not pass through our branch at Iowa City.

Q. Is that a frequent occurrence?

A. We encourage our sales people to ship that way.

Q. Well, is that a regular occurrence?

A. Yes, sir, routine business.

Q. How frequent would you say you use Rock Island Motor Transit on shipments going into Iowa City?

A. Every day.

Q. How frequently would you use Rock Island Motor Transit on your so-called overhead drop shipments from factory to customer?

A. I would say 4 days out of 6 days' business. I can't say every day because I might miss a day or two once in a while, but practically every day our salesmen bring in orders that are direct drop shipments. They may be shipped today; they may be shipped next week; they may be shipped 6 weeks from now.

Q. In other words, your dealers order ahead?

A. Yes, sir.

Q. Have you had experience with other transportation companies bringing shipments to your place of business in [fol. 1504] Iowa City or some of those overhead drop shipments?

A. Yes, sir.

Q. State whether or not that has been as satisfactory a service as the Rock Island Motor Transit service has been?

A. It has not been as satisfactory and I can explain some of the reasons why some of their drop shipments direct are not as satisfactory. I can show you. On the 12th day of December, 1951, I telephoned Lynch at Cleveland for an air compressor to be shipped to Marengo to a man by the name of Knipple who makes the Iowa corn shows, "Ship it right away".

On the 24th of December I had a bill of lading marked to ship by truck via Watson Brothers at Chicago. I went over to the Watson dock in Kansas City and said, "How about this thing?" He says, "We won't pick that up in Chicago". I says, "I need it; I want it". "We haven't any way of getting that to you; we won't even pick it up". "What is the matter calling up about it"? "Well, we will try to have somebody else pick it up for you". That is the kind of business we run into.

Do you know what happened? I had to take a new air compressor out of my place and hook it up for Knipple. Then I called the factory and asked them for that air compressor. It stayed on the docks in Chicago for 2 weeks and 5 days; then it was carried to Marshalltown and sat there for 5 days.

That is a sample of some of the things that have happened. I got one here in my pocket: Des Moines Transpor- [fol. 1505] tation Company Bill of Lading 979051, dated 9-26-'51, one box of welders.

Q. Where did that originate?

A. Minneapolis. Bill received 10-3-'51; freight received in Iowa City 11-14-'51; and I needed that merchandise. Rock Island Motor Transit can get that to me in 3 days. They are interested in the business.

Q. The shipment you referred to last fall was handled by the Des Moines Transportation Company?

A. This one was, yes. I have some on McCoy. I telephoned United Manufacturing Company in Chicago, if I remember correctly, around the 16th or 18th of November——

Q. What year?

A. 1951. —for 24 spotlights going to Millers Sales & Truck Service. About 2 weeks later I still didn't have that stuff. They said it was shipped around the 18th or 19th of November. I wrote back and says, "How?" They wrote back and said it went McCoy. I called McCoy and said, "Where is my United stuff?" He says, "I got the bill here; there are 5 packages; I got one. You don't want just one package. I didn't bring it down." I says, "What have you done about it?" Well, he says, "I traced it through Waterloo". I said, "Give me the man's name at Waterloo". I called him on the phone. He said he would see what he could do about it.

I waited 4 or 5 days more and then I calls United again and said, "I have to have spotlights. Get a new shipment [fol. 1506] out today via Rock Island Motor Transit; they will pick them up tomorrow morning." About 5 days later I got the McCoy shipment, so I had two sets of spotlights.

Q. The McCoy Truck Lines are supposed to serve Iowa City?

A. Not as far as I am concerned. I don't ask them to serve me.

Q. Watson Brothers are supposed to serve Iowa City?

A. That is what I thought, but you can see what they care about it. They have no delivery service. I can get better service out of Minneapolis and I have them delivered by Coleman & Wellman.

Q. Do you have overhead deliveries by Coleman & Wellman?

A. Yes, sir.

Q. Every time you think of it do you specify The Rock

Island Motor Transit Company preference to other companies?

A. Yes, sir. They are nice people; they want to do business with us, they give service and that is all I care for. It is the business that you are after.

Q. Now, what would be the effect on your company's business in the event the Rock Island Motor Transit Company should be required to terminate its operations or materially reduce its service?

A. I don't think it would make Barron Motor Supply go broke, but it would force me to buy a truck and do my own delivery service in these counties I am talking about.

Q. Do you feel you would have difficulty getting shipments into Iowa City?

[fol. 1507] A. Yes, sir. Well, you can see what I told you. Those are facts I can verify.

Mr. Nolan: I will take your word for it. That is all. You may cross examine.

Cross examination.

By Mr. Bradshaw:

Q. Now, the incoming shipments you spoke about, other than your rail carload lots, how many shipments have you had in the last year that exceeded 1,500 pounds in weight?

A. By truck?

Q. By truck.

Q. Over 1,500 pounds?

Q. Yes.

A. Oh, Gosh! quite a bunch of them. I would say 10 percent of them.

Q. How about those exceeding 2,000 pounds?

A. They come down pretty fast, probably down to 5 percent.

Q. And at 3,000 pounds you would not have much to speak of, would you?

A. No, sir. Our shipments are from a ton to two ton, up to that.

Q. As I understand it, these shipments that come in go direct to the person who ordered through you?

A. A lot of them, yes, sir, every day.

Q. And out of your place in Iowa City you would not give to the truck company anything exceeding 3,000 pounds by truck. Isn't that so?

[fol. 1508] A. Not as a general rule; that is right; no.

Mr. Bradshaw: That is all.

The Witness: Right now we do have, as I say, this carload stuff. It comes in maybe 3, 4 or 5 times a year. They are shipments of oils and anti-freeze, When we ship out 40 or 50 cases at a time we have to break them down. We will ship out 5,000 pounds today and 5,000 pounds tomorrow. That is what we have to do in a case like that.

Mr. Bradshaw: That is all.

Exam. Carpenter: Redirect?

Redirect examination.

By Mr. Nolan:

Q. Just one other question, Mr. Wegmuller.

Do you know of any transportation company that provides the same type and character of service the Rock Island Motor Transit Company renders to Iowa City and the other points along Highway No. 6?

A. Not that I know of.

Mr. Nolan: That is all.

Exam. Carpenter: Any recross?

Mr. Bradshaw: No.

Exam. Carpenter: That is all.

(Witness excused.)

Mr. Nolan: Mr. Slager, please.

TRUMAN SLAGER was sworn and testified as follows:

[fol. 1509] Direct examination.

By Mr. Nolan:

Q. Will you state your name, place of residence and business, please?

A. Truman Slager, Iowa City, Iowa. I own and operate a complete hardware store, appliances and farm implements.

Q. How long have you been so engaged?

A. I am in my fourth year for myself. I have been in business prior to that for other concerns about 12 years.

Q. From what points do you have shipments coming into Iowa City in less-than-carload quantities?

A. Well, from Blair, Nebraska; Minneapolis, Minnesota; Moline, Chicago, Illinois. I think probably those are the chief sources of supply. We do have some from Warren, Ohio, and South Milwaukee, Wisconsin.

Q. Are those what we would call volume shipments or less than carload?

A. Well, we get quite a lot of farm implements from Moline, Illinois, and Minneapolis, Minnesota, which would be more than 5,000 pounds. We have received one semi-truck load of one item from Minneapolis out of Moline, Illinois. We did haul a lot of that ourselves. We do have quite a little volume coming out of Moline, Illinois.

Q. Do you handle a tractor line?

A. Minneapolis-Moline, a complete line manufactured at Moline and Minneapolis and Hopkins, Minnesota.

[fol. 1510] Q. And you also handle a general line of farm supplies?

A. That is right.

Q. Which are made by other companies?

A. That is right.

Q. Like corn elevators?

A. Yes; we get those out of Blair, Nebraska.

Q. And feed grinders and things of that kind?

A. Yes.

Q. What companies have you been using into Iowa City on less-than-truckload shipments?

A. Rock Island Motor Transit.

Q. What has been the nature of that service?

A. It has been very satisfactory.

Q. And have you used the Rock Island Motor Transit from all points north, east and west?

A. Wherever we can; always out of Minneapolis. In fact, our hardware source has a letter written about 2 years ago to ship nothing but Rock Island Motor Transit.

Q. And you have specified the Rock Island Motor Transit?

A. That is right.

Q. And you do that wherever you can?

A. Wherever we can.

Q. Now, there are a number of truck companies serving Iowa City or operate through Iowa City, are there not?

A. That is right.

[fol. 1511] Q. You know that to be a fact?

A. Yes.

Q. Have you had any experience with service via any other truck companies operating through Iowa City other than the Rock Island Motor Transit Company?

A. Yes, we have in some isolated cases; cases where we failed to direct Rock Island Motor Transit we have.

Q. Can you give us any examples of the service you have had via lines other than the Rock Island Motor Transit Company on shipments from any particular places the freight bills for which you have pulled out of your files?

A. I just went over some of the freight bills we had after the first of the year last night. Here is one, Western Transportation Company from South Milwaukee. The service was not too bad. It was shipped March 12, we received it March 17. It was not too bad a service. We have received overnight service in the past.

Q. Give us the date of that shipment and the volume of it.

A. It was consigned to the Western Transportation Company March 12, 1952, and we received it March 17, 1952; it weighed 589 pounds.

Then, from the same company on March 4, 1952, they shipped 405 pounds and we received it March 11th. We were in a little hurry for that, which was not too bad.

Q. Did that come out of South Milwaukee too?

[fol. 1512] A. Yes, sir. Then, we have one here by Western Transportation from the Hettrick Manufacturing Company of Huntington, Indiana, shipped December 19, 1951; we received it January 3, 1952. That was in amount of 164 pounds. We were in a hurry on that; it was a special order for tarpaulins for a customer.

Here is a shipment by Rock Island Motor Transit; that

is our other regular service. We telephoned Minneapolis for some rush merchandise March 20, this year. It was consigned to the Rock Island Motor Transit on March 21st, which would be Friday, and we received the merchandise Monday about 10 o'clock. We were one piece short and it was found and brought to us yesterday.

Q. Now, that included a weekend, did it not?

A. We ordered it on Thursday, it was shipped on Friday and we received it on Monday.

Q. You say there was one piece short. Would you say that is the usual service of the Rock Island Motor Transit?

A. No. It is very seldom we ever have a shortage. There were 88 pieces in the shipment which included some stepladders, and when we checked the merchandise in we counted 88 pieces because there were two stepladders which were fastened together and the twine enroute was broken. After we had checked the merchandise against the invoice I telephoned the Rock Island Motor Transit and they immediately located the piece for us. Now, that is the motor service that means a lot of business to us, especially out of Minneapolis and Des Moines.

[fol. 1513] Q. You are referring to the Rock Island Motor Transit service?

A. That is right.

Q. Any others you think of?

A. Here is one shipped by rail.

Q. From where?

A. From Minneapolis also. This was shipped March 15, 1952; it consisted of a minimum shipment. It was received in Iowa City March 24 and we received it March 25.

Q. That was shipped by rail?

A. By rail.

Q. That was by the Rock Island rail?

A. Yes, sir. That is about the regular rail transit service, about 10 days to 2 weeks.

Q. Did you specify the routing on the shipment or did the shipper just happen to ship it that way?

A. They just happened to ship it that way. They have a standing order, I presume, but maybe somebody mislaid the order.

Q. When you referred to the freight bills from Western

and Rock Island Motor Transit, would you say they reflect fair examples of their service throughout the year?

A. I think these are typical freight bills. Luthe Hardware at Des Moines is one of our biggest sources of farm supplies and hardware, and they have a standing order to ship only by Rock Island Motor Transit.

Q. In fact, the Rock Island Motor Transit is the only [fol. 1514] company which can serve Des Moines and Iowa City on intrastate traffic?

A. That is right.

Q. You have interstate and intrastate shipments coming into your place at Iowa City?

A. That is right.

Q. Do you know of any company serving Iowa City that gives the same type and character of service the Rock Island Motor Transit Company has been giving you?

A. I do not. That has not been my experience. I specify Rock Island Motor because they have given me very substantial service and they have taken care of me very well on claims. The claims are handled very, very well.

Q. Have you had any experience with other transportation companies at or passing through Iowa City on claims?

A. I have.

Q. And was that satisfactory?

A. It depends on what you call satisfactory. I have one now with Watson Brothers on a shipment shipped to me in October 1950 and the claim amounting to $50 still is not paid.

Hedrick hauls out of Burlington, Iowa, into Iowa City. In about 1947 I had three claims with him which are unpaid yet. I have given up on those.

Q. Are you getting any merchandise out of Burlington now via Rock Island Motor Transit?

A. Yes, I get merchandise from there.

[fol. 1515] Q. Is that routed through the Davenport gateway and then comes in on Rock Island Motor?

A. I can't tell you; I haven't paid any attention to it. I just received several shipments from Burlington the last couple of months but I don't know how they came, whether by rail or truck or in what way.

Q. What would be the effect on your business there in Iowa City if the Rock Island Motor Transit Company was required to cease operating or substantially curtail its operations?

A. It would mean one of two things to me. You mean if they discontinued to haul out of Des Moines too?

Q. Completely.

A. I would have to give up my source of supply here in Des Moines and buy from a firm in Cedar Rapids. I would have to change my source of buying, or it would increase my inventory with a longer inside basis by four to six thousand dollars. In merchandise receipts that is a big item. If we can get one piece of merchandise and use it, as probably other men do in the same type of business as I am in— Say we receive merchandise the first week of the month, we order it, we get it right in, we get it on the shelves; a lot of that merchandise is sold before we even have to pay for it. Probably the 10th of the month we would have to increase our order to every 90 days instead of every 30 day which would increase our inventory.

Mr. Nolan: That is all. You may cross examine.

[fol. 1516] Cross examination.

By Mr. Bradshaw:

Q. Referring back to the freight bills, if you please, would you give me the pro number on the Western Transportation bill of March 12th?

A. C-184745.

Q. Where was that shipment originated?

A. South Milwaukee, Wisconsin.

Q. And destined to Iowa City?

A. Right.

Q. And weighed 589 pounds?

A. 589 pounds, right.

Q. What was the freight charge?

A. $1.37 per hundred; $8.31 total.

Q. The total charge was $8.31?

A. $8.31 including the tax.

Q. And the next one on March 4th you referred to?
A. The pro number is C-176578.
Q. That was received March 11th?
A. That is right.
Q. And given to the carrier on what date?
A. March 4, 1952.
Q. And where was that originated?
A. South Milwaukee.
Q. And what was the weight on that one?
A. 405 pounds, $1.37 rate, a total of $5.72.
[fol. 1517] Q. $5.72 charges?
A. That is right.
Q. And the third one by Western on December 19th?
A. The pro number on that is C-122593. That consisted of four bundles of tarpaulins, weighed 164 pounds, rate $1.85.
Q. Total freight bill?
A. $3.12.
Q. Where did that originate?
A. That originated at Huntington, Indiana, from the Hettrick Manufacturing Company.
Q. And the one by Rock Island Motor Transit on March 21?
A. The pro number of that is 366961.
Q. Where was that from? Where did it originate?
A. Minneapolis, Minnesota.
Q. And consisted of stepladders?
A. Stepladders, glassware, steelware, auto brushes, rubber hose.
Q. And the weight?
A. The total weight was 904 pounds, and it had various rates.
Q. What was the total charge?
A. The total charge was $18.85. A lot of this is very bulky merchandise with no large weight.
Q. Is the majority of your inbound shipments under 2,000 pounds?
A. Oh, yes.
Q. Under 1,500 pounds?
A. Yes, because we get a lot of small shipments.
[fol. 1518] Q. Do you have any over 2,000 pounds?

A. A number of them, yes.

Q. Do you have any over 3,000 pounds?

A. Yes.

Q. How do you handle those?

A. Well, we haven't had any over 3,000 pounds right recently. From Moline, Illinois, we get a lot of shipments that may run anywhere from 1,200 to 8,000 pounds.

Q. How do you handle those shipments?

A. A lot of that merchandise we go after ourselves if we can get a full truckload.

Q. Is that your farm machinery?

A. That is farm equipment, just plows and merchandise of that kind.

Q. Do you have any heavy equipment over 5,000 pounds which comes in from any other source?

A. From Minneapolis, Moline and Hopkins, Minnesota, but that usually comes in by rail in full carloads. We also get full carloads from Joliet, Illinois, wire shipments.

Q. By rail?

A. By rail. Shipments of 5,000 pounds or over are made on an average of once or twice every other month. I would say probably ten times a year.

Q. And most of it is this farm machinery you go after yourself?

A. Occasionally we have a heavy shipment of hardware [fol. 1519] that may weigh from three to six thousand pounds a shipment, sir.

Q. Well, if it is over 5,000 pounds, who handles it for you?

A. Well, they have not shipped over 5,000 pounds to the shipment since the restriction was established.

Mr. Bradshaw: That is all.

Mr. Nolan: That is all.

Exam. Carpenter: That is all. Thank you, sir.

(Witness excused.)

Mr. Howland: Mr. Vieth, please.

C. C. VIETH was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name?

A. C. C. Vieth.

Q. You live where, Mr. Vieth?

A. Oakland, Iowa.

Q. What business are you engaged in?

A. Hardware, furniture, appliances, and I operate a funeral home there.

Q. How long have you been engaged in business at Oakland?

A. It has been 64 years since the firm has been established, but I have been there personally for 38 years.

Q. I take it that, in connection with your business, you have occasion to have shipments of merchandise coming in to Oakland from outside the state of Iowa?

[fol. 1520] A. Oh, yes.

Q. What points do you principally receive merchandise from? What are your sources of supply?

A. Well, locally, that is within the state, we have——

Q. Well, I am particularly interested in out of state.

A. Well, Chicago, St. Louis— Oh, there is really quite a variety of places. We get furniture from a good many places; Kansas City, you know, a lot of shipments; just once in a while from different points.

Q. Different points of origin?

A. Yes.

Q. Now, on your furniture shipments, are those customarily delivered to you by the manufacturer's own truck or are they handled in some other manner?

A. We get most of it by Rock Island Motor Freight because we buy most of it here in Des Moines.

Q. Well, I am speaking about out-state shipments. You see, Mr. Vieth, this case is entirely concerned with interstate service. Do you get shipments of furniture and similar articles from outside of the state also?

A. Yes; we get furniture from Kansas City. I think that

firm is in Kansas City, but the shipments, I guess, originate in Leavenworth, Kansas.

Q. On your hardware lines, do you get any of your hardware items from outside of the State of Iowa?

[fol. 1521] A. Oh, yes; we get a little hardware from Chicago.

Q. How are those items usually transported?

A. Well, in different ways. Sometimes it comes by rail freight, and it is picked up by the Rock Island Motor Transit because we have no rail freight coming in by railroad.

Q. That is, the less-than-carload or smaller shipments are not handled on trains?

A. No; there is nothing handled on the train.

Q. Oakland is a community of about how many people?

A. About 1,500.

Q. And it is located in the southeasterly portion of Pottawattomie County?

A. Yes, sir.

Q. It is about how far from Omaha?

A. About 30 miles.

Q. And your rail service there by a branch line of the Rock Island Railroad that extends north and south?

A. That is right.

Q. How frequently do you have train or rail service into Oakland?

A. I think it is three times a week; but we do not get any less-than-carload freight, just carloads by rail.

Q. And your less-than-carload freight, even though moving on railroad billing, will be delivered by the Rock Island Motor Transit Company?

[fol. 1522] A. That is right.

Q. How frequently does the Rock Island Motor Transit Company serve Oakland?

A. Well, we get shipments there almost every day, but I will say on an average of probably four times a week.

Q. What types of business are located at Oakland? Do you have any manufacturing establishments there?

A. No, I believe not.

Q. They are the retail stores?

A. Yes.

Q. The usual retail and service establishments for an agricultural community the size of Oakland?

A. Yes, that is right.

Q. Now, I believe there are certain other motor carriers that render service to Oakland?

A. Yes.

Q. What carriers are there that render service to Oakland?

A. The other principal one is the Iowa-Nebraska Transportation Company.

Q. And that comes in from Omaha?

A. From Omaha.

Q. On shipments coming in from the east does the Iowa-Nebraska Transportation render a direct service, or does that merchandise move to Omaha and then come back to Oakland?

A. Well, we get nothing from Iowa-Nebraska from the east.

[fol. 1523] Q. Do you know what their service is from the east?

A. I don't think they operate from the east at all.

Q. At least your experience is confined to Omaha-Oakland service?

A. That is right.

Q. Have you been solicited to route any other shipments then Omaha shipments?

A. No; that is right.

Q. Do you have occasion to have any shipments made into your place of business where the weight exceeds 5,000 pounds in a single shipment?

A. Very seldom.

Q. 5,000 pounds would take care of most of your shipments?

A. It has mostly. It is generally around a thousand pounds.

Q. Now, Mr. Viett, if this Rock Island Motor Transit service were eliminated entirely or substantially reduced, do you think that would have any effect on your business or on your community there?

A. Oh, yes, I am sure it would, because we frequently called Des Moines for something urgent and it is loaded out of there and we usually get it the next day.

Q. Is there any other carrier that renders service into Oakland from the east or from points outside of the state located east of the State of Iowa?

A. No, there is not.

Mr. Howland: I think you may cross examine.

[fol. 1524] Mr. Bradshaw: No cross examination.

Exam. Carpenter: That is all. Thank you.

(Witness excused.)

Mr. Howland: Mr. Kinner, please.

C. E. KINNER (Recalled) was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Mr. Kinner, you were on the witness stand earlier in the hearing and testified concerning the situation in Chicago. You were to produce certain information for us, I believe, that was requested by Mr. Fowler last week.

Have you before you an abstract of the shipments received from connecting carriers at Chicago, Illinois, during the months of January, February, March and April, 1951, where the shipments were originally routed by other carriers but were given to the Rock Island Motor Transit Company for delivery?

A. I have.

Mr. Howland: I would like to ask that the tabulation produced by the witness be marked for identification as exhibit 19.

Exam. Carpenter: It shall be so marked.

(The tabulation referred to was marked "Applicant's Exhibit No. 19 for identification.)

By Mr. Howland:

Q. Now, referring to this tabulation which you have produced, which has been marked exhibit 19 for identification, how was that made up? Is that an abstract of the bills [fol. 1525] you had here with you at the time and to which you testified?

A. Yes, that is right.

Q. In the first column on the left of the paper marked for identification as exhibit 19 you have the originating carrier's pro number, and that is followed by the point of origin, point of destination, the originating carrier and the original routing as shown on the bill. Is that correct?

A. That is right.

Q. The information shown on the tabulation marked for identification exhibit 19 is a tabulation of the information shown on those bills that you had? Is that right?

A. Yes, that is right.

Q. Is there anything further that you can add with respect to this tabulation, as to the way it was made up, or the occasion for the Rock Island Motor Transit receiving these shipments rather than the original routing?

A. Well, I have the bills here covering this abstract and, in checking them, I find that the class of merchandise covered by these bills is not what is known as desirable freight in the trucking industry. It is freight of low rate or of a bulky nature which makes it more or less undesirable.

Q. What would you say was the general class of this freight as to the classification it would take?

A. There is quite a bit of first-class merchandise in here but it is bulky freight and freight susceptible to damage [fol. 1526] and is merchandise of that character on which the claim ratio is usually higher than on other types of merchandise, very high.

OFFER IN EVIDENCE

Mr. Howland: We will offer at this time and introduce in evidence exhibit 19 in connection with the testimony of Mr. Kinner.

Exam. Carpenter: Cross examine.

Cross examination.

By Mr. Bradshaw:

Q. I want to ask you, Mr. Kinner, if this is the information you got entirely from the bills which were here at the previous time you were on the stand?

A. That is right.

Q. And none of this information is taken from other records?

A. No, sir.

Mr. Bradshaw: That is all.

Exam. Carpenter: The document consisting of 8 sheets is received in evidence as exhibit 19.

(Applicant's exhibit No. 19, Witness Kinner, was received in evidence.)

Redirect examination.

By Mr. Howland:

Q. In preparing this tabulation, which has now been received in evidence as exhibit 19, do you know, as a matter of fact, whether the carrier shown on the original routing had, in fact, authority to serve the points of destination named in the bills?

A. Yes. I have checked the tariffs and find the original [fol. 1527] routing could have been protected by the carrier designated by the shipper if they so desired.

Q. In other words, in each instance, according to their tariff authorities, the carrier shown on the billing had authority to serve the destination point?

A. That is right.

Q. And these shipments were given to the Rock Island Motor Transit Company at Chicago and the service actually performed from that point to the destination named?

A. That is right.

Q. Now, while you were on the witness stand, Mr. Kinner, you produced some information, or some estimates I guess it was, with regard to the quantity of tonnage handled during the months since the restriction of 5,000 pounds has been in effect on the operations of the Rock Island Motor Transit Company. You were asked and it was suggested by the Examiner and requested by Mr. Fowler that you produce some data from the records supporting some of the statements that you made. Have you attempted to do that?

A. Yes; I have those records.

Mr. Howland: I will now ask that the document consisting of 5 sheets headed "The Rock Island Motor Transit Company, Daily Record of Terminal Operations," Form 19, be marked for identification as applicant's exhibit No. 20.

Exam. Carpenter: It may be so identified.

[fol. 1528] (The document referred to was marked as "Applicant's Exhibit No. 20, Witness Kinner", for identification.)

By Mr. Howland:

Q. I notice these 5 sheets are dated October 31, 1951, November 30, 1951, December 31, 1951, January and February 29, the last two months being in 1952. What are these sheets that are included in the document which has been marked for identification as exhibit 20?

A. These are extracts of our permanent record in Chicago which shows the tonnage handled for the day of February 29, 1952, then the total for the current month of February 1952, then in the next column we have the tonnage handled the same day last year, which in this case we used the last day of February 1951, and on the extreme right hand of the sheet is the total tonnage handled for the entire month of February 1951.

Q. So, on the first sheet of that exhibit, the total tonnage for the month of February 1952, handled at the Chicago dock of the Rock Island Motor Transit Company, was 4,372,833 pounds. Is that right?

A. That is right.

Q. Whereas, for the month of February 1951 consisting, as I take it, of 28 days?

A. That is right.

Q. Was that 7,631,729 pounds of freight handled across the dock?

A. That is right.

Q. For the purpose of making the record clear, as I [fol. 1529] understand it, on each of the sheets of this document, marked for identification as exhibit 20, under the headings "Today" and "Total for current Month *do* date" you show the tonnage handled for the last day of the month and the total number of pounds handled in that par-

ticular month; and on the right hand side you show the same information for the year preceding.

A. That is right.

Q. So that on the top sheet of this document, marked for identification as exhibit 20, the total for month to date last year would be the month of February 1951.

A. That is right.

Q. Now, going back to October, as shown on the back sheet, you would there have the information in the right hand column for the month of October 1950 compared with that information for the month of October 1951. Is that right?

A. That is right.

Q. I notice you show some percentage figures on each one of those sheets and it lists a certain decrease in each instance. Does that decrease refer to the day or does it refer to the month?

A. That is for the entire month.

Q. Now, these records of the merchandise handled across the dock are daily records kept under your supervision and which you are required to send in each day?

A. That is right.

Q. Of course, on the last day of the month you show the [fol. 1530] information for the whole month?

A. Yes, that is right. In fact, the total is carried forward daily so, at the end of the month, you have the grand total by adding what you have until the 28th of February in this case, and when you have the 29th day's business for February added on to that month you have the grand total for the month.

Q. Now, of course, any truckload shipments that you might have made would not be included in merchandise handled across the dock. That is correct, isn't it?

A. That is right.

Q. If you had a volume shipment of 5,000 pounds, where it was never unloaded at the dock but delivery was made from the road unit, would that be included in this report?

A. That would not be included in this report.

OFFER IN EVIDENCE

Mr. Howland: I will offer and introduce in evidence at this time applicant's exhibit No. 20.

Exam. Carpenter: Any objection?
Mr. Bradshaw: May I inquire first?
Exam. Carpenter: Sure.

Recross examination.

By Mr. Bradshaw:

Q. As I understand it, Mr. Kinner, this document covers all of the freight handled across the dock in Chicago except truckload lots, regardless of destination.
A. That is right.
Q. In other words, you don't maintain this is the traffic [fol. 1531] coming into the territory covered by this application.
A. Not entirely.

Mr. Howland: It would be at this particular time, wouldn't it, unless you had a 5,000-pound shipment that was loaded in one of the road units?

By Mr. Bradshaw:

Q. Well, that is not the case, is it?
A. What you mean is, did all this tonnage in this case move into the points embraced in this application?
Q. Yes.
A. No; there is some Illinois intrastate involved.
Q. In other words, it includes the intrastate as well as the interstate traffic?
A. That is right.
Q. Do you have any way of breaking it down to show what was coming into the points involved in this application?
A. No; I have no way of doing that.

Mr. Bradshaw: May we go off the record just a minute?
Exam. Carpenter: Off the record.

(Discussion off the record.)

Exam. Carpenter: Back on the record. The document will be received in evidence as applicant's exhibit No. 20.

(Applicant's exhibit No. 20, Witness Kinner, was received in evidence.)

Redirect examination.

By Mr. Howland:

Q. Is it your desire to leave at 2:15 this afternoon?
[fol. 1532] A. Yes, sir.

Mr. Howland: If there is any further question about his examination or the production of any further documents, I would like to have it raised now.

Mr. Bradshaw: Are you through with him?

Mr. Howland: Yes.

Mr. Bradshaw: I have nothing further with him.

Exam. Carpenter: Off the record.

(Discussion off the record.)

Exam. Carpenter: On the record.

By Mr. Howland:

Q. Mr. Kinner, with respect to exhibit No. 20 indicating a decline in traffic handled at your Chicago terminal of the Rock Island Motor Transit Company, can you tell us what reasons existed for this decline in the volume of tonnage handled across your dock in Chicago in the months of October, November and December 1951 and January and February 1952 compared with the corresponding months the year previous? What causes were there for that?

A. Well, we know definitely that part of the decrease was caused by our 2,000-pound restriction, which was later increased to 5,000 pounds, and the fact that we could not handle Omaha and points west in Nebraska direct.

Q. All shipments originating at Chicago and destined to Omaha, Nebraska, were entirely eliminated?
[fol. 1533] A. We have continued to handle Omaha and points west in connection with another carrier beyond Des Moines.

Q. Then, I take it one of the principal causes of this decline in volume would be the restriction first of 2,000 pounds maximum limitation and then the 5,000 pounds maximum limitation?

A. That is right.

Q. Are you familiar with the situation in the Chicago terminal area as to whether or not there has been any reason in recent months for a decrease in volume handled by the carriers generally?

A. Well, I can state specifically there has been no decided decrease, and I base my opinion on the fact we must make deliveries of our freight from the west moving into the eastern, northern and southern territories, and it has been a big problem to get rid of that merchandise in some cases to connecting lines; which means they are running to full capacity.

Q. Well, you say, as far as your experience indicates, there has been no general, drastic decrease in volume of shipments handled by the motor carriers in Chicago?

A. No decided decrease, no, sir.

Q. Well, what causes would you attribute for the declines that are shown there in exhibit 20 other than the imposition of the maximum restrictions of 2,000 pounds and 5,000 pounds in your opinion?

A. Well, as I stated, the fact we cannot serve Nebraska [fol. 1534] and Iowa points direct tended to decrease our business. A two-line haul is not good service when there are many carriers making Omaha on a single-line proposition.

Q. And you have been required on Omaha business and business moving through the Omaha gateway to interline with other carriers?

A. We have continued it that way, yes, sir.

Q. Do you have any opinion or judgment with respect to which of the two major items you referred to, the 5,000-pound maximum limitation restriction or the Omaha restriction, is the greater factor in producing this decline in quantity of freight handled at your Chicago terminal?

A. Well, it is definitely due to the weight restriction. Our Omaha business normally runs about 10 percent of our entire operation; Illinois intrastate about 20 percent of our entire operation. That leaves 70 percent that moves over Highway 6.

Mr. Howland: I think that is all I have.

Recross examination.

By Mr. Baxter:

Q. Mr. Kinner, do I understand your testimony to mean that, in your opinion, there was not a decrease in the amount handled in the industry during the month of February 1952 as compared to February 1951?

A. Well, I can't speak for the industry as a whole, but I can give you my observations in Chicago, and that is what I have done.

Q. In other words, your observations are limited to your [fol. 1535] own truck line, Rock Island Motor Transit Company.

A. Definitely not with 50, 75 or 100 operators in Chicago.

Q. Are you speaking of all freight in and out of Chicago or just freight going into this area covered by the application?

A. I am speaking of freight moving in all directions out of Chicago.

Q. And you claim there has been no decrease in any of these months compared to the comparable month in the year before in industry so far as Chicago is concerned?

A. That is right.

Q. What percentage of this decrease do you attribute to your weight resfriction?

A. I probably can answer that in this way, that our normal tonnage to Omaha was running approximately 40,000 pounds per day and that has dwindled down to five to ten thousand pounds. The rest of the decrease would be due to weight restriction.

Q. So that your tonnage Chicago to Omaha has decreased?

A. That is right.

Q. And you are familiar, as you testified, with the operations of some of these other carriers in Chicago?

A. Yes.

Q. Do you happen to know who gets that tonnage now?

A. Well, I imagine it is split up among the other motor carriers.

Q. That is the other motor common carriers operating between Chicago and Omaha?

[fol. 1536] A. I presume a good share of it is going that way. Perhaps some of it is moving rail.

Q. Maybe carriers not connected with the railroads?

A. I imagine the Burlington is getting some and other railroad-owned truck lines.

Mr. Bradshaw: I believe that is all.

Redirect examination.

By Mr. Howland:

Q. To your knowledge there are no restrictions imposed as yet on the operations of the Burlington Transportation Company out of Chicago?

A. Not to my knowledge, no, sir.

By Exam. Carpenter:

Q. Did any part of the decrease result from interchange of traffic in connection with the Rock Island and other carriers serving Chicago?

A. Yes, I would say that decrease has been as heavy as our local traffic out of Chicago. In my testimony of March 18 I presented an exhibit that showed where we had been forced to turn down shipments of over 5,000 pounds that originated east, north and south of Chicago due to this restriction.

Exam. Carpenter: Anything further?

Mr. Howland: Nothing further.

Mr. Bradshaw: Nothing further.

Exam. Carpenter: That is all. You are excused.

(Witness excused.)

Exam. Carpenter: We will have about a 5-minute recess.

[fol. 1537] (Recess.)

Mr. Nolan: Mr. Boat, please.

J. G. BOAT was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you please state your name, place of residence and occupation?

A. J. G. Boat; I live at Pella, Iowa, and operate the Dowden Manufacturing Company at Prairie City, Iowa.

Q. What products do you manufacture at Prairie City, Mr. Boat?

A. Principally farm equipment, wagon boxes, Hammermill tires, Ford tractors, hydraulic units.

Q. How long have you been engaged in business at Prairie City?

A. At Prairie City since 1885.

Q. Do you have shipments of less-than-carload quantities coming into Prairie City?

A. Yes, we do.

Q. And that is the different types of materials used in the manufacture of those products?

A. Principally steel.

Q. In what size quantities does steel come in?

A. It varies from small shipments up to four and five thousand tons.

Q. What company has been handling those small shipments into your place of business?

[fol. 1538] A. Principally the Rock Island Motor.

Q. Where do you get the steel?

A. I would say 90 percent of it from Chicago.

Q. And you say the Rock Island Motor Transit Company has been handling practically all of those inbound shipments?

A. Practically all of them.

Q. What has been the nature of the service the Rock Island Motor Transit has rendered, whether satisfactory or otherwise?

A. Well, I will say it has been very good. We are well satisfied with the way the Rock Island Motor Transit handles our freight.

Q. In what way?

A. Any time we need something in a hurry or a shipment is lost or takes a little longer than we think it should we can call Des Moines and generally get pretty good service.

Q. How far is Prairie City located from Des Moines?

A. Twenty miles.

Q. You are on Highway 163, are you not?

A. That is right.

Q. Now, on outbound shipments do you use the Rock Island Motor Transit?

A. Almost exclusively.

Q. Why?

A. Well, they are about the only ones that stop there and solicit the business, and they have always taken good care of us.

Q. Where are those outbound shipments destined?

[fol. 1539] A. Well, we do business in about seven of the midwestern states. It varies, but mostly in Nebraska, Minnesota, Illinois and down in Missouri.

Q. I assume some of those shipments will be brought to Des Moines and then shipped east over U. S. Highway 117 via the Rock Island Motor Transit. Is that right?

A. Yes, quite a few of them.

Q. How about through Omaha and into Des Moines?

A. Yes.

Q. What would you say would be the frequency with which you have shipments handled by the Rock Island Motor Transit out of your plant at Prairie City? By that I mean how often you ship out of Prairie City.

A. Daily.

Q. What would be the average size of those daily shipments?

A. They vary from a hundred pounds to occasionally 5 and 6 thousand pounds.

Q. Now, you understand the Rock Island Motor Transit Company is now restricted to the handling of shipments of 5,000 pounds maximum limitation?

A. That is right.

Q. Does that interfere with the flow of your traffic both inbound and *in*bound?

A. I would say yes.

Q. The fact that the Rock Island Motor Transit might [fol. 1540] be compelled to cease operating in this territory or materially reduce its service, would that adversely affect your company?

A. Definitely.

Q. Do you know of any transportation agency serving Prairie City to and from the territory served by the Rock Island Motor Transit Company which could take the place of the Rock Island Motor Transit?

A. I am not aware of any.

Q. Have you been offered any such service by any other motor truck company?

A. No, we haven't.

Q. In addition to your plant or factory at Prairie City do you have an interest in any other company?

A. Yes, in the Pella Foundry at Pella, Iowa.

Q. What work do you do there?

A. Castings, moldings.

Q. With regard to your products both inbound and outbound at Pella, do you have practically the same situation as to service that you have at Prairie City?

A. Yes, we do, except most of our raw products come in by rail.

Q. How about your outbound shipments?

A. A large percentage of them goes out by our own truck or the Rock Island Motor Transit.

Q. What would be the size of those shipments?

A. They vary from two thousand to five to six thousand pounds.

[fol. 1541] Q. And do they go into the midwest territory about the same as your products from Prairie City?

A. That is principally to Iowa; very little goes outside of the state.

Q. But the Rock Island Motor Transit Company does take care of those Iowa intrastate shipments?

A. Very definitely.

Q. Do you know of any company which would provide the same service for your plant at Pella that the Rock Island Motor Transit Company is now providing?

A. No.

Q. And would the cessation of operations or material reduction in service of the Rock Island Motor Transit adversely affect your business at Pella?

A. It definitely would.

Q. Pella is located on U. S. Highway 163?

A. Yes.

Mr. Nolan: I believe that is all.

Exam. Carpenter: Cross examine.

Cross examination.

By Mr. Bradshaw:

Q. Mr. Boat, how do you spell your name?

A. B-o-a-t.

Q. Am I right in saying your situation is something like this, that you have a satisfactory service from the Rock Island Motor Transit Company on inbound and outbound [fol. 1542] freight under 5,000 pounds at the present time?

A. I would say so, yes.

Q. And you are not looking for any other carrier?

A. No.

Q. And you haven't had occasion to investigate to see if there is any other transportation available?

A. We really haven't, no.

Q. And you have very few shipments over 5,000 pounds outbound? Is that right?

A. A very few. I would say that is substantially correct.

Q. And if you have one from your Pella Foundry it is intrastate or within the State of Iowa?

A. That is right.

Q. Do you have any shipments over 5,000 pounds going out of the State of Iowa from either place?

A. Yes, we do.

Q. And what is the frequency of them?

A. Oh, during our season I would imagine it is one a week.

Q. Who handles that for you?

A. Prior to this time?

Q. Who handled it for you the last 6 months?

A. Well, in one or two cases we made two shipments.

That is, we shipped part of the hydraulic units in one day and followed it up with the other shipment.

Q. Did you use any carrier other than the Rock Island [fol. 1543] Motor Transit on those shipments?

A. No.

Q. You said you had no occasion to investigate to see if anyone else could handle them.

A. That is right.

Mr. Bradshaw: I believe that is all.

Redirect examination.

By Mr. Nolan:

Q. Where you have a shipment outbound in excess of 5,000 pounds you break that down so it would be under 5,000 pounds so you could ship via the Rock Island Motor Transit?

A. That is right.

Q. Have you ever been solicited and offered service by any other carrier who would provide the same type of service or substantially the same type of service the Rock Island Motor Transit Company provides?

A. Not to my knowledge.

Q. You would know it if anyone was around there looking for business?

A. That is right.

Mr. Nolan: That is right. That is all.

Mr. Bradshaw: That is all.

Exam. Carpenter: That is all. You are excused.

(Witness excused.)

Exam. Carpenter: Call your next witness.

Mr. Nolan: Mr. Smith, please.

[fol. 1544] C. R. Smith, Jr. was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you please state your name, place of residence and occupation?

A. C. R. Smith, Jr., Oskaloosa, Iowa; Production Manager of Iowa Valve.

Q. Tell us a little bit more about the nature of the business of Iowa Valve.

A. Iowa Valve is a manufacturer of fire hydrants and gate valves used principally in water systems by towns and cities around the country.

Q. Do you ship direct to the consumers or the wholesalers?

A. We ship about 95 percent directly to the consumer.

Q. How long has your company been in business?

A. Since about 1909.

Q. Are you familiar with the transportation agencies used by your company on inbound and outbound shipments?

A. Yes.

Q. What company has your plant used on both inbound and outbound shipments?

A. The majority of it, I would say has been handled by the Rock Island Motor Transit truck for both inbound and outbound.

Q. What products do you have coming into your factory?

A. Iron and steel, that is bar stock, and nuts and bolts, [fol. 1545] brass tubing, brass rods.

Q. What size quantities do your shipments move in?

A. Well, until just recently, with the allocations imposed, we used to be able to buy in a fairly decent quantity and get a price break, but generally they come close to 5,000-pound shipments.

Q. What are your sources of supply of steel and brass?

A. Most of the steel comes out of Chicago; the brass comes out of Connecticut. That is by motor truck out of Chicago.

Q. That comes through the Chicago gateway?

A. Yes.

Q. What would you say would be the average size of your outbound shipments?

A. That is rather difficult to say because our items are very bulky, that is weightwise. The fire hydrants, I would say, average 400 pounds and sometimes get down to as low as 200 pounds; we have some that will weigh four and five thousand pounds.

Q. Do those shipments move into points that are out of the State of Iowa?

A. Yes, sir.

Q. And those shipments have been primarily handled by the Rock Island Motor Transit Company?

A. On the outbound.

Q. Has the 5,000-pound limitation on the Rock Island Motor Transit operation between the Tri-Cities and Omaha [fol. 1546] affected your ability to use the Rock Island Motor Transit Company on your outbound shipments?

A. I couldn't answer and say "Yes" definitely because, as I said, these shipments vary in quantity. I can't recall shipping anything beyond Omaha that has affected us, but I would assume it had because occasionally we do ship to those points.

Q. Well, from your past operations by the Rock Island Motor Transit Company, would you say you do have shipments that exceed 5,000 pounds that are moved out by the Rock Island Motor Transit Company?

A. Oh, yes, definitely.

Q. What would the cessation of or a substantial reduction in the service of the Rock Island Motor Transit Company result in as far as your company is concerned? Would or would it not adversely affect your business?

A. I don't think it would affect our business, but it would affect the service we would render to customers in the immediate vicinity. In other words, one of our selling points is if anyone in the vicinity have an emergency and they need valves or hydrants we make schedules in our production service to take care of it. Our items, as mentioned before, are bulky and sometimes we get an order of 20 fire hydrants and I can't put them in a Rock Island

Motor truck billed at our plant. Sometimes the Rock Island Motor Transit can make the haul or make possible a two-line haul out of it. In other words, we don't have the [fol. 1547] constant interline on these hydrants and valves.

Q. Do you know of any other transportation agency that will give or has offered to give the same type of service the Rock Island Motor Transit has been giving your plant at Oskaloosa, Iowa?

A. Well, several have offered but have never been able to give the service.

Q. Have you tried to use other service?

A. We have occasionally yes.

Q. Has it been as satisfactory as that of the Rock Island Motor Transit Company?

A. No, it has not.

Q. Why not?

A. Well, the Rock Island Motor Transit has a terminal in Oskaloosa. They spot a truck at our plant, it is there for our convenience and we can load it any time during the day and they haul it out every night. We know it is scheduled, we know it is going to be there. If we have to trace shipments we can trace them quite easily, and if we have claims we can usually handle them without too much difficulty.

Q. Now, in connection with the Rock Island Motor Transit service, I think the record shows that they maintain an agent and terminal with dock facilities at Oskaloosa, also including rate information and facilities for tracing lost and damaged articles.

A. That is right.

Q. Does any other highway carrier provide the same service there?

[fol. 1548] A. No, there is no other service.

Q. There are other companies operating through Oskaloosa, are there not?

A. That is right.

Q. But none of those companies provide a terminal agent or dock facilities there?

A. No.

Mr. Nolan: You may cross examine.

Cross examination.

By Mr. Bradshaw:

Q. Does not the Burlington Transportation Company have a terminal at Oskaloosa?

A. I beg your pardon. They do. Burlington does have, but it is not the same type of terminal as the Rock Island Motor Transit as far as service goes.

Q. What other truck lines operate between Oskaloosa and Omaha?

A. I think the Burlington does; I may be wrong on that. But our method of shipping has been to load anything westbound on Rock Island Motor Transit and they take it to Des Moines; they handle it for us.

Q. Yes; but my question was what are the other carriers that serve Oskaloosa and Omaha, Nebraska.

A. That I can't tell you right offhand.

Q. In other words, your service has been satisfactory and you haven't had occasion to check into it too thoroughly, have you?

A. No, we haven't because, as I say, the service the [fol. 1549] Rock Island Motor Transit has rendered us has not led us to seek anyone else.

Mr. Bradshaw: That is all.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Nolan:

Q. Mr. Smith, as a matter of fact, is it not true the Burlington Transportation Company's operating authority north and west out of Oskaloosa into Des Moines is restricted to intrastate business?

A. I can't answer that.

Q. If you were going to route a shipment by the Burlington Transportation Company it would have to go south to Ottumwa and then west to Omaha. Isn't that true?

A. Yes, it would have to go down to Ottumwa.

Q. You are not sure whether the Burlington Transportation Company has any authority interstate in a westerly or northwesterly direction out of Oskaloosa?

A. No; I haven't checked that.

Q. Now, there are certain other carriers such as the Bruce motor who operate between St. Louis and Des Moines. Are you familiar with their service?

A. Slightly, yes.

Q. Have you had occasion to use their services?

A. On occasion I have used them, yes.

Q. Bruce has no east and west service through Des Moines, do they?

A. No, not that I know of.

Q. Are there any other carriers that serve Oskaloosa [fol. 1550] on a regular basis other than Burlington Transportation Company, Rock Island Motor Transit Company and Bruce Motor?

A. Western Transportation.

Q. Do you know over what routes they operate?

A. No; I haven't paid too much attention to Western because they are more or less straight into Chicago.

Q. Well, that was one of the things I was going to ask, if they had any service west out of Oskaloosa.

A. No; they have no service west.

Q. And they come in solely from the east?

A. That is right.

Q. And, of course, the Rock Island Motor Transit Company does have authority interstate to operate to interstate points via Des Moines or via Ottumwa and Davenport?

A. Yes.

Q. Are there any other carriers that you know of that serve Oskaloosa other than the ones we mentioned on a regular basis?

A. No, not on a regular basis.

Q. Keeshin comes in from the north, do they not?

A. They come in maybe two or three times a week.

Mr. Nolan: One other question.

By Mr. Nolan:

Q. With regard to this truck the Rock Island Motor Transit Company spots at your place of business, you mean a trailer unit?

A. Yes.

[fol. 1551] Q. Do you load one of their trailer units practically every day?

A. I would say every day.

Q. Is it more convenient for you to have one company with dock and terminal facilities right there in Oskaloosa to take your output every day?

A. That is correct.

Mr. Nolan: That is all.

Exam. Carpenter: Recross.

Mr. Bradshaw: No questions.

Exam. Carpenter: That is all. You will be excused.

(Witness excused.)

Mr. Howland: Mr. Millstead, please.

HARRY MILLSTEAD was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name?

A. Harry Millstead, Oskaloosa, Iowa.

Q. Your business is what, Mr. Millstead?

A. I am the agent for the Rock Island Motor Transit at Oskaloosa.

Q. How long have you been located there?

A. I have been there just a month over two years.

Q. What personnel does the Rock Island Motor Transit Company have at Oskaloosa?

A. We have an agent, a clerk, a rate clerk, three dock men, and one of our over-the-road drivers that works out [fol. 1552] of Oskaloosa lives at Oskaloosa.

Q. And you are the agent?

A. That is right.

Q. Do you maintain pickup and delivery service in Oskaloosa?

A. Yes, sir, we do.

Q. With company-owned trucks?

A. That is right.

Q. How many units of equipment have you there?

A. We have two pickup and delivery units and one trailer and tractor we use.

Q. Oskaloosa's population is approximately what?

A. Between 13,000 and 14,000.

Q. What industries do you have there in the way of manufacturing?

A. Iowa Valve, Ideal Manufacturing Company, Continental Overall Company and— I was going to say General Mills, but they have just recently moved out.

Q. Are those the principal receivers and shippers of materials and the principal manufacturing industries of the City of Oskaloosa?

A. That is right.

Q. What other carriers serve Oskaloosa besides the Rock Island Motor Transit Company?

A. Western, Hawkeye, Bruce, and there is a carrier, the P. & W., I will say have rights in there.

[fol. 1553] Q. Well, isn't P. & W. primarily a livestock hauler?

A. That is right.

Q. And they bring loads back on an irregular-route basis?

A. Yes, sir.

Q. The other concerns you have mentioned are regular-route carriers?

A. Yes, sir.

Q. Keeshin Motor Express does have authority into Oskaloosa from the north, does it not?

A. Yes, that is right, but you very seldom see them in there.

Q. What about the service of the Burlington Transportation Company into Oskaloosa? What type and character of authority does Burlington Transportation Company perform?

Mr. Bradshaw: Just a moment. I object to this testimony as not being the best evidence, and it is hearsay.

Mr. Howland: I think I would like to qualify the witness a little further.

Exam. Carpenter: Very well.

By Mr. Howland:

Q. Are you familiar with the type and character of transportation service which the Burlington Transportation Company offers to the public there at Oskaloosa?

A. Yes, sir.

Q. They are a competitor of yours on some business, are they not?

A. That is right.

Q. Now, I will ask you——

[fol. 1554] Mr. Bradshaw: Same objection.

Exam. Carpenter: The objection is overruled.

Read the last question.

(Question read.)

By Mr. Howland:

Q. By that I mean, Mr. Millstead, does the Burlington Transportation Company handle interstate shipments out of Oskaloosa to Omaha via Des Moines, or east and west via Des Moines, or do they operate on some other basis?

A. Most of their shipments are interlined at Ottumwa. They take that route down to Ottumwa and it is moved out of Ottumwa.

Q. As a matter of fact, they don't have any interstate authority into Des Moines, do they——

A. No.

Q. —from Oskaloosa?

A. That is right.

By Exam. Carpenter:

Q. Do they interline Omaha traffic at Ottumwa?

A. At Ottumwa.

By Mr. Howland:

Q. Mr. Millstead, have you had any experience in rejecting shipments in excess of 5,000 pounds since the limitation of 5,000 pounds has been on since November of last year?

A. As far as that is concerned we haven't rejected them but as far as we could take them would be to Des Moines or to Ottumwa or Davenport; and we have had a number of them we had to turn over to another carrier.

[fol. 1555] Q. In other words, the 5,000-pound restriction is not applied on the authority between Oskaloosa and Des Moines or between Oskaloosa and to points as far as Davenport?

A. That is right.

Q. But you are affected by it in that when you get to Des Moines or Davenport you have had to deliver those shipments to other carriers instead of performing the line-haul service over the Rock Island Transit territory?

A. Very definitely.

Q. And have you had some instances where some shippers have made up more than one shipment when otherwise they might have made it all in one shipment?

A. We have had very little of that situation of breaking shipments down. Our problem has been with the customer that has 10,000 pounds in one shipment, he has two or three other shipments of maybe five or six hundred pounds, and he wants them to be carried right straight through together, say, for instance, to Omaha or Chicago. Then, we will have to tell him that we are going to have to tra-sfer the 10,000-pound shipment at Des Moines. Well, he hesitates about giving us the whole business. The carrier down there is the one we have competition with, the same as we do at other places.

Q. And has the imposition of this 5,000-pound restriction operated to curtail your business, the volume business, you have handled there?

[fol. 1556] A. I would question that to some extent. I don't think it has been tremendously curtailed. There has been a lot of cases, especially in seed corn, stuff like that, 5,300 pounds, where they have had to turn it down or turn it over to a carrier going east.

Q. That is interlined?

A. That is right.

Q. Instead of giving the Rock Island Motor Transit Company the haul to destination or as far as they are in a position to handle it?

A. That is right.

Mr. Howland: You may cross examine.

Cross-examination.

By Mr. Bradshaw:

Q. Is your freight warehouse in the railroad station down there?

A. No, sir. We are a little over a block due east of the railroad station.

Q. These two pickup and delivery trucks of yours, do they also pick up and deliver rail freight?

A. Yes, sir.

Mr. Bradshaw: That is all.

Redirect examination.

By Mr. Howland:

Q. There is one question we omitted to ask you, Mr. Millstead. What rail carriers presently serve Oskaloosa?

A. The M. & St. L. is the only one besides the Rock Island.

Q. Does the Burlington Railroad have any rail facilities [fol. 1557] in Oskaloosa?

A. No, sir.

Q. At one time the Burlington had a branch line that came in from the southeast, did they not?

A. I think that is right.

Q. But that has been abandoned some years ago?

A. That is right.

Q. And the M. & St. L. operates north and south, and east to Peoria, Illinois?

A. That is right.

Mr. Howland: That is all I have.

Exam. Carpenter: Any recross?
Mr. Bradshaw: Nothing further.
Exam. Carpenter: Thank you. You are excused.

(Witness excused.)

Exam. Carpenter: We will recess for lunch until 1:45 p. m.

(Whereupon, a recess was taken at 12:15 p. m. until 1:45 p.m., the hearing reconvening at that time as follows:)

AFTERNOON SESSION

Exam. Carpenter: We will proceed with the hearing.
Mr. Nolan: Mr. Mauer, will you please take the stand?

WESLEY C. MAUER was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you state your name, place of residence and [fol. 1558] occupation?
A. Wesley C. Mauer, Minden, Iowa, partnership with Hansen and Mauer Hardware Store.
Q. What business are you in?
A. Hardware and supplies.
Q. How large a town is Minden?
A. Oh, about 300.
Q. Does it have the general retail service establishments found in an agricultural community of that size?
A. Yes.
Q. How long have you been in business there?
A. Well, I have been in business going onto 6 years as a partner, but he has been there about 20 years.
Q. Where is Minden located?
A. Well, it is 25 miles east of Council Bluffs, Iowa on Highway 64.
Q. Do you have shipments coming in from out-of-state points to your place of business?
A. Not very many.

Q. Where do you get most of your merchandise?

A. From Luthe and Brown-Camp, Des Moines, and from Omaha.

Q. Do you use the services of the Rock Island Motor Transit Company?

A. Yes, we do.

Q. Does it give a daily service in and through Minden?

[fol. 1559] Mr. Bradshaw: May we limit this to interstate commerce?

Mr. Nolan: Well, we will develop that.

By Mr. Nolan:

Q. Do you use the Rock Island Motor Transit on your shipments from Omaha?

A. Well, not so much. We have a transfer line right there in Minden, and we do haul quite a bit of our own freight from Omaha ourselves.

Q. Do you have occasional shipments that come in from Chicago?

A. Yes, we have occasional shipments from out of state.

Q. Do those shipments come in via the Rock Island Motor Transit Company?

A. Mostly all.

Q. Is the service of the Rock Island Motor Transit necessary for you to get those shipments?

A. We get better service on shipments coming in via the Rock Island Motor Transit.

Q. Would it be detrimental to your business if you should lose the services of the Rock Island Motor Transit?

A. Well, it would hurt it some.

Q. Do you have a local trucker at Minden?

A. Yes.

Q. Who is that?

A. Kruger.

Q. Does he have a truck haul into Omaha?

A. Yes, he has.

[fol. 1560] Q. Do you know whether he interlines on through billing at Omaha?

A. I couldn't tell you.

Q. But the Rock Island Motor Transit is the only com-

pany that serves Minden on direct shipments from Chicago? Is that true?

A. I think you are right.

Q. Is that service a daily service?

A. Yes.

Q. I assume those shipments you get in from the east and Chicago and points like that are what you would call small shipments?

A. Yes, small shipments.

Q. Anywhere from 100 to 500 pounds?

A. That is right. We never get in big shipments.

Mr. Nolan: That is all.

Exam. Carpenter: Cross examine.

Mr. Bradshaw: No questions.

Exam. Carpenter: That is all. Thank you, sir.

(Witness excused.)

Mr. Nolan: I will call Mr. Erickson.

CLINTON ERICKSON was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you give us your name and place of residence?

A. Clinton Erickson, Neola, Iowa. I am a partner in the [fol. 1561] implement business known as the Neola Farm Equipment. We have the International Harvester and New Idea contracts.

Q. You are a local distributor for those two companies?

A. That is right.

Q. Do you handle the entire line of the International Harvester Company's plows, discs and such as that?

A. Yes, sir.

Q. And also from the other company?

A. Their hay equipment, farm implements, plows and things like that.

Q. How long have you been connected with the implement business in Neola?

A. It will be 4 years in May.

Q. Where is Neola located?

A. About 20 miles east on 64 from Council Bluffs.

Q. Is it a station on the Rock Island Railroad?

A. It is, but I guess it won't be long.

Q. Neola is one of the towns that is on the present line of the Rock Island but which will be on a branch line after the main line of the Rock Island is changed to a direct line from Atlantic to Council Bluffs. Is that right?

A. Yes.

Q. Where do you get your parts and farm supplies from?

A. Well, our parts are coming from Kansas City now.

Q. I assume the tractors and larger machines will come [fol. 1562] in already set up.

A. Yes.

Q. How about your New Idea equipment? Where do you get that from?

A. We get that out of Omaha.

Q. What transportation company has been handling your shipments from Kansas City?

A. The Rock Island Motor Transit has been handling some of them from Kansas City.

Q. How about your Omaha shipments?

A. We haul most of our Omaha shipments ourselves.

Q. Did you formerly get your International parts from Omaha?

A. Yes. Kruger hauled those.

Q. What has been the quality of the service you get from Kansas City via the Rock Island Motor Transit Company?

A. Well, the service on all of our parts has not been too good from Kansas City since they changed it down there, but we have had the best service by the Rock Island Motor Transit.

Q. You mean it naturally takes longer to get shipments out of Kansas City via the Rock Island Motor Transit Company?

A. Yes, sir.

Q. Than out of Omaha, Nebraska?

A. That is right.

Q. Do you get anything from the Tri-Cities?

A. No.

Q. Now, you say the service from Kansas City has not [fol. 1563] been too good. Do you mean the Rock Island Motor Transit has not given you good service or does it take longer by reason of the location of your plant from Kansas City?

A. Well, I think we are just spoiled from Omaha.

Q. In other words, you can get shipments about every hour from Omaha?

A. That is right.

Q. And it takes what from Kansas City? About 2 or 3 days?

A. Just about that.

Q. Does the Rock Island Motor Transit serve your town every day?

A. Yes.

Q. How frequently do you use the service of the Rock Island Motor Transit Company for out-of-state shipments?

A. Well, I would say possibly twice a week.

Q. Do you know of any other transportation agency that can give you as good a service as the Rock Island Motor Transit Company?

A. So far I don't.

Q. What, in your opinion, would be the effect on your business in getting parts from Kansas City if the Rock Island Motor Transit Company were required to terminate or curtail its operations?

A. Well, we have received so little from down there to this time, the movement just started this year, that I don't know just what effect it would have.

Q. But you know of no other agency or transportation [fol. 1564] company that would give you the service the Rock Island Motor Transit Company gives you out of Kansas City?

A. No.

Q. State whether or not you feel the services of the Rock Island Motor Transit on shipments you are now receiving from Kansas City is necessary for the proper conduct of your business there at Neola.

A. I think it is.

Q. You are the only International dealer, I suppose, at Neola, are you not?

A. Yes.

Q. In other words, the International dealers are franchised to different localities?

A. Yes, sir.

Q. And you have the exclusive International line there? Is that right?

A. That is right.

Q. What would you say would be the volume or size of the shipments that you ordinarily get from Kansas City?

A. Well, we are placing stock orders now and they will run probably 400 pounds, maybe 600 pounds.

Q. How would a corn picker come out?

A. They come by rail.

Q. Now, you take a corn picker or a tractor or an implement like that, they come in volume lots, do they not?

[fol. 1565] A. That is right.

Q. In other words, there would be a carload of corn pickers or tractors to Council Bluffs and you would get your share from that volume lot, is that correct?

A. That is right.

Mr. Nolan: I believe that is all.

Exam. Carpenter: Cross examine.

Cross examination.

By Mr. Bradshaw:

Q. How long have you been getting these parts from Kansas City?

A. Just since the first of the year.

Q. How many shipments does that amount to?

A. Oh, I suppose we have had possibly five shipments.

Q. And if I understood your testimony, Kansas City and Omaha are the only two points you get your freight from out of state?

A. Well, occasionally from Rock Island special new parts would come from the factory.

Q. That would be parts it is impossible to get out of Kansas City?

A. Yes.

Q. What would the frequency of that movement be?
A. Oh, possibly four or five times a year at the most.

Mr. Bradshaw: That is all.

Redirect examination.

By Mr. Nolan:

Q. Those shipments that come out from the factory at [fol. 1566] Rock Island or Moline, have they come by the Rock I[illegible] Motor Transit?
A. I believe they have.
Q. Do you know of any other service direct from Rock Island or Moline other than the Rock Island Motor Transit service?
A. No, I can't say I do.
Q. When you say you have had very few shipments from Kansas City so far this year, isn't it a fact you are just getting into the season of the year when you will require more shipments from Kansas City?
A. That is right.
Q. In other words, you don't have many breakdowns in farm implements during the winter time, do you?
A. No.
Q And from now until after corn picking time those shipments will no doubt be very frequent?
A. That is right.

Mr. Nolan: That is right. That is all.
Exam. Carpenter: Any recross examination?
Mr. Bradshaw: No.
Exam. Carpenter: That is all. You are excused.

(Witness excused.)

Mr. Nolan: Mr. Godby, please.

GRAHAM GODBY was sworn and testified as follows:

[fol. 1567] Direct examination.

By Mr. Nolan:

Q. Will you give us your name, place of residence and occupation, please?

A. Graham Godby, Dexter, Iowa.

Q. Where is Dexter located?

A. About 35 miles west of Des Moines.

Q. On U. S. Highway No. 6?

A. On No. 6.

Q. What is the size of the town of Dexter?

A. About 8 or 9 hundred.

Q. You are in what business?

A. Implement and automobile.

Q. What line of farm implements do you handle?

A. John Deere.

Q. Do you have an automobile agency there?

A. Yes.

Q. What make?

A. Pontiac.

Q. Do you handle a full line of John Deere Farm implements?

A. Yes.

Q. Do you also handle some other special make or special line of farm supplies and farm implements?

A. No, unless it would be manure spreaders or something like that.

Q. Do you receive shipments in both your implements [fol. 1568] and automobile business from points out of the state?

A. In the automobile business it is all transport business except for parts, and in the farm implement business the most of it is from Des Moines and Chicago.

Q. On the parts that come out of Chicago, what transportation company brings those to Dexter for you?

A. The Rock Island Motor Transit Company.

Q. How frequently do you get parts from Chicago?

A. Oh, I would say at least three times a month probably.

Q. And I assume your farm implement parts and your smaller farm implements, your tractors and corn pickers and binders and things of that character, come in block lots and you get your share of the block? Is that correct?

A. That is right.

Q. How about the repair parts and things of that character? Where do you get those?

A. Well, our warehouse is at Des Moines, and they come out of Moline, Illinois.

Q. How frequently do you get implement parts or small implements from Moline, Illinois?

A. I would say three times a week.

Q. How do those move from Moline to Dexter?

A. Rock Island Motor, or rail, either one.

Q. Which is the better service, Rock Island Motor or Rock Island rail?

[fol. 1569] A. Rock Island Motor.

Q. State what the fact is whether or not the Rock Island Motor operates a daily service in and through Dexter, Iowa, from both east and west.

A. Yes.

Q. And you have used that service, have you not, over the years?

A. Yes, I have.

Q. How long have you been in business in Dexter?

A. Since 1948.

Q. Have you used the service of the Rock Island Motor for these Chicago and Moline shipments during that period of time?

A. Yes, we have.

Q. What has been the quality of that service, whether satisfactory or otherwise?

A. We have had no objection to their service at all; we think they have done very well.

Q. State whether or not you need a continuation of that service in your business to Dexter, Iowa?

A. Yes, we need a continuation of that service.

Q. Do you know of any other trucking company that provides the same kind of daily service to Dexter that the Rock Island Motor Transit Company provides?

A. Not to my knowledge. Of course, there are a lot of trucks that go through there.

Q. Do they all stop there?

[fol. 1570] A. No.

Q. And so far as you know there is no other trucking company that makes a regular scheduled stop in Dexter, is there?

A. No.

Q. State whether or not your business would be adversely affected if the Rock Island Motor Transit Company were required to terminate or curtail its operations to only occasional operations into Dexter. Would that affect your business?

A. Yes. Our shipments from Moline, I am sure, would be much slower if it were not for the Rock Island Motor Transit.

Q. What has been your experience in getting your shipments in by rail? Is that a rather slow and impatient process?

A. Yes, it is.

Q. Do you know how many days shipments from Moline to Dexter by rail would take?

A. They run all the ways from 10 days to 2 weeks.

Q. What has been the service via Rock Island Motor Transit?

A. Well, 3 days; in a good many cases in one day.

Q. You have had shipments overnight and second-day delivery? Is that right?

A. That is right.

Q. Isn't it true, Mr. Godby, when you need a repair part you need it as soon as you can get it? Is not that correct?

A. That is correct.

Mr. Nolan: I believe that is all.

[fols. 1571-1572] Exam. Carpenter: Cross examine.

Cross examination.

By Mr. Bradshaw:

Q. Have you made any investigation to see whether or not any of these other truck lines stop at Dexter?

A. No, I have not.

Q. In other words, your service with the Rock Island Motor Transit has been satisfactory and you haven't had occasion to check on it?

A. No, we haven't.

Q. And these shipments by the Rock Island Motor Transit are all small shipments, are they?

A. What do you mean by small shipments?

Q. Oh, under a thousand pounds.

A. Oh, no, they would not all be. We get harrows and manure spreaders and stuff like that.

Q. What will they weigh?

A. Well, your harrows would run, I suppose, all the way from 800 to 2,000 pounds, depending on how many we put in.

Q. Would that be about your heaviest item?

A. Yes, I think that is probably about the highest, the heaviest in weight.

Q. And does the Rock Island Motor Transit Company bring the harrows in too?

A. Yes.

Q. Do you ship anything out?

[fol. 1573] A. No.

Q. Who do you pay your freight bills to? Your motor freight bills?

A. You mean the Rock Island Motor?

Q. Yes.

A. You mean the person himself?

Q. Well, do they have an agent there?

A. They do at the station, yes. That is the person we pay.

Q. You pay at the station?

A. Yes.

Q. And is it the railroad station agent that you pay?

A. Yes.

Q. Regardless whether it is motor truck billed freight or rail billed freight?

A. Yes.

Q. If you have a claim to make, do you see that same station agent to handle it?

A. Yes.

Q. Does he process that claim?

A. Yes.

Q. And he does that regardless whether it is rail freight or motor freight?

A. Yes.

Q. The fact of the matter is your rail freight comes in on the truck, doesn't it?

[fol. 1574] A. You mean all of it?

Q. Yes. If you have some small rail freight that is billed rail, doesn't that come in on the same truck with the other?

A. Well, I suppose some of it could be that; I haven't paid any attention to that. However, we do get some by rail.

Q. And is that delivered to your door?

A. Yes.

Q. The rail shipments?

A. They have a man who delivers it.

Q. Who is that?

A. John Caldwell.

Q. Is he an employee of the Rock Island Railroad?

A. I think that is right.

Q. Or is he an employee of the Rock Island Motor Transit?

A. I couldn't tell you that. I don't know.

Q. Does he bring in your motor freight?

A. Yes.

Q. He serves both, then, doesn't he?

A. Yes.

Q. Then, you do get your rail freight and your motor freight on the same truck brought by this gentleman you spoke of?

A. Yes. However he does not rent him a truck. He has got a little hand cart he uses on the pieces he can't handle.

Mr. Bradshaw: That is all.

Exam. Carpenter: Redirect.

[fol. 1575] Redirect examination.

By Mr. Nolan:

Q. Mr. Caldwell is your local delivery man?

A. Yes.

Q. And he delivers for any company that leaves freight there for him to deliver?

A. Yes.

Q. Now, Mr. Godby, in regard to payment of settlement of claims, any claim you have settled with the Rock Island Motor Transit Company, you get a Rock Island Motor Transit Company's check, do you not?

A. That is right.

Q. Whereas the agent might take the claim, it is turned over to the Rock Island Motor Transit Company for processing and settlement, is it not?

A. Yes.

Q. Did you ever have the experience of presenting a claim to Mr. Caldwell and he turning it over to the Rock Island Motor Transit?

A. No.

Mr. Nolan: I believe that is all.

Mr. Bradshaw: Nothing further.

Exam. Carpenter: That is all. Thank you, sir.

(Witness excused.)

Mr. Nolan: Mr. Brown, please.

T. B. Brown was sworn and testified as follows:

[fol. 1576] Direct examination.

By Mr. Nolen:

Q. Your name is T. B. Brown?

A. Yes, sir.

Q. And you live at Washington, Iowa?

A. At Washington, Iowa.

Q. What is your occupation?

A. Superintendent of the American Pearl Button Company.

Q. What is the business of that company?

A. Manufacturer of fresh-water pearl buttons.

Q. Out of what are those buttons manufactured?

A. Out of the muscle of clam shell.

Q. What is the source of your clam shells?

A. At the present time as of right now the southern rivers produce more than the nearby rivers; it is a fresh water product.

Q. Do you mean from the mouth of the Mississippi to the Gulf?

A. No; down through Alabama, Tennessee, Georgia and down in there?

Q. How do those clam shells ordinarily come in?

A. By rail carload lots.

Q. You get the clam shells in by rail in carload quantities?

A. That is right.

Q. Do you grind the buttons out of the clam shells?

A. We cut out the blanks to the size of the buttons we want.

Q. Have you any of the buttons with you?

A. I have some in my shirt here; I got some in the bag [fol. 1577] up to the hotel.

Q. As I understand it, you grind out or process many different types of pearl buttons. Is that right?

A. Yes.

Q. Different sizes.

A. Different sizes, but pretty much to standard all through the industry.

Q. Is your company a national concern or is it local there in Washington?

A. It is owned locally, but we sell nationally.

Q. How long has your company been in business in Washington, Iowa?

A. For 46 years.

Q. How big a pay roll in numbers do you have there?

A. We have 250 employees.

Q. Is it year around production?

A. Year around.

Q. As I understand it, buttons are the only thing you make there?

A. That is right.

Q. Are those buttons shipped out in bulk or carded before shipped?

A. They are shipped out in bulk, but we retail them on cards.

Q. The bulk is shipped out in a given size; and they go to the clothing industry, do they not?

A. Yes, to the garment industry.

[fol. 1578] Q. Then, the buttons you have are in different combinations of assortments on cards and they go to the retail trade?

A. Eventually, yes, through jobbers, or to the chain stores.

Q. To what territory do you ship your finished product, your buttons, either in bulk or on card?

A. All over the United States.

Q. What is the size of Washington, Iowa?

A. Six thousand, and according to the Chamber of Commerce it is 7,500.

Q. Are you representing the Washington Chamber of Commerce here today?

A. Yes.

Q. I assume Washington has all the retail establishments and service establishments that a city the size of Washington has in an ordinary agricultural community?

A. Yes.

Q. Do you have any other industry there besides your pearl button business?

A. Oh, yes; there are six or eight other manufacturers, some small and some large. We have one of the largest calendar factories there; we have a turkey processing plant there; the Eyebolt Company is there; Cargo is there with their grain processing plant but that is all carload.

Q. That is an animal feed processing plant?

A. Yes.

[fol. 1579] Q. What type of merchandise does the Eyebolt Company make?

A. What do you call them? Eyebolts. They got a hole in them at both ends accompanied by a swivel. The- make eyebolts and turnbuckles.

Q. What size quantities are your outbound shipments. Mr. Brown?

A. They will average 500 pounds.

Q. Would that be in both the bulk shipments and the card shipments?

A. Right.

Q. What transportation facility do you primarily use on your outbound shipments?

A. The Rock Island Motor to date.

Q. How long have you been using the Rock Island Motor Transit?

A. Should I tell my story or just answer the question?

Mr. Bradshaw: Just answer the question.

By Mr. Nolan:

Q. Tell them your story.

Mr. Bradshaw: Just a minute.

Mr. Nolan: He is answering the question.

Exam. Carpenter: Read the question, please, Mr. Reporter.

(Question read.)

A. Six -- seven years.

By Mr. Nolan:

Q. What agency did you use before that?

A. Hedrick or Keeshin.

Q. Explain in detail, if you care to do so, why you changed to the Rock Island Motor Transit Company.

[fol. 1580] A. Now, we are getting somewhere.

Mr. Bradshaw: Just a minute. I object on the ground this story is going to be too remote to have any bearing on this case. It is irrelevant.

Exam. Carpenter: Objection overruled. Go ahead. Don't make it too long.

A. All right. Hedrick & Keeshin had franchises to come in there. They hired a local transfer outfit to act as their local agent or representative to do the pickup work. The local transfer has a dock; they both pick up their shipments at the same dock. They both come in at uncertain times, no one knows when or how often a week. They have the

most irregular schedules and transfer any motor line could have.

Our experience back as far as 6 years ago has been we couldn't tell if a shipment would leave Washington that day or maybe next week. Between them they had only one key to the dock and warehouse.

By Mr. Nolan:

Q. You mean at the local transfer?

A. At the local warehouse to which they have one key. If there is a shipment there and it is not on their bill of lading, the other truck company takes it out. So we lose a shipment, can't find it and no one has any record of it because they do not sign for the receipt of it, there is no signature there. They just pick it up. We are in the habit now, when we need to trace a shipment, of writing to both of them.

[fol. 1581] I am not knocking them; this is a story. Naturally we are so dependent upon the Rock Island Motor Transit because we do get overnight service from Chicago. By rail from Washington to Chicago it takes 4 days. We can get overnight service into Davenport, Chicago, Omaha and Kansas City.

Q. Do you use the Rock Island Motor Transit's service to the Twin Cities?

A. Right, to and from.

Q. Then, as I understand your testimony, you have been using the Rock Island Motor Transit exclusively almost for the last 6 years. Is that right?

A. Right, with the exception we do use rail to the south. We have branches of the Rock Island, Milwaukee and Burlington in Washington.

Q. But on your truck shipments you have been using the Rock Island Motor Transit for outbound shipments for the last 6 months?

A. Right.

Q. With what frequency do you have outbound Rock Island Motor Transit service out of Washington?

A. Daily.

Q. Has the service of the Rock Island Motor Transit been satisfactory?

A. Very satisfactory.

Q. Does the Rock Island Motor Transit Company have an agent there at Washington?

[fol. 1582] A. Yes.

Q. Do they provide pickup and delivery service for you?

A. Right.

Q. You have some inbound shipments in leaa-than-truckload quantities. Where do they come from?

A. Printed cards from the Twin Cities, steel wire from Chicago, also button shanks from the far eastern part of the United States.

Q. And those shipments would come through the Chicago gateway?

A. Right.

Q. How have those shipments been coming in to you?

A. We don't specify to our dealers how they ship. We think it is up to them to give us good service, and they should know more than we do what lines are better in their localities than we do, so we do not specify as to how they come.

I didn't include before a shipment from Milwaukee coming by the Bruce Line, corrugated cartons tied in bundles. Out of 54 bundles we got 3 bundles because of the transfer. I checked back on this shipment. It was handled from Milwaukee to Chicago, given to Bruce and then to Hedrick and by them to the local transfer and the local transfer brought it over, and they were all loose in the truck.

Q. How long did it take that shipment to come that way from Milwaukee?

A. I am not positive but I would say 6 or 8 days.

Q. Does the Rock Island Motor Transit bring in regular [fol. 1583] shipments to your place of business from these out-of-state points to which you have referred?

A. Oh, yes.

Q. Has that service been of a high quality?

A. It is very fine.

Q. What would be the size of those inbound shipments ordinarily?

A. I would say from 250 to 500 pounds.

Q. You have no volume shipments like 10,000 pounds?

A. Nothing like that.

Q. What effect, in your opinion, would it have on your company's business if the Rock Island Motor Transit Company should be required to terminate or substantially reduce the regularity of its service?

A. I would hate to think of having a thing like that. I don't know just what we would do.

Q. And the only other agencies you know of that have any schedules in there, whether they operate them or not, are Hedrick Freight Lines and Keeshin Motor Freight?

A. Yes, interstate.

Q. You say those schedules are not maintained?

A. We have no way of knowing when they are going.

Q. Would it then be fair to say your company would be greatly damaged and handicapped if the Rock Island Motor service should be eliminated or curtailed at Washington?

A. Yes.

[fol. 1584] Mr. Nolan: You may cross examine.

Cross examination.

By Mr. Bradshaw:

Q. Mr. Brown, you say the Rock Island Motor Transit maintains a pick-up and delivery service at Washington?

A. That is right.

Q. Do they pick up your rail freight as well as your motor freight?

A. When we have some, yes.

Q. And you do have some once in a while?

A. Very seldom; we are on the branch line.

Q. The same truck picks it up?

A. The same truck.

Q. The same driver?

A. Well, there are two pickup drivers.

Q. Do you know where he takes that freight?

A. Yes; they have a department in the freight house that is entirely motor transit freight.

Q. Does he take the rail freight he picks up at your place of business to the motor freight department?

A. Well, in the same building but at the other end of the building.

Mr. Bradshaw: That is all.
Mr. Nolan: I believe that is all, Mr. Brown.
Exam. Carpenter: That is all, Mr. Brown. Thank you.

(Witness excused.)

[fol. 1585] Mr. Nolan: I will call Mr. Walker.

LEWIS J. WALKER was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you give us your name, place of residence and occupation, please?

A. Lewis J. Walker, Atlantic, Iowa, Secretary of the Atlantic Chamber of Commerce.

Q. How long have you been so engaged, Mr. Walker?

A. Going on to 2 years.

Q. Have you had other Chamber of Commerce experience prior to that?

A. Yes, sir.

Q. Will you give us a general idea of Atlantic as a community, the business establishments, business enterprises and factories?

A. Atlantic has the general run of retail outlets in a city of that size plus 10 or 11 manufacturing establishments, the Western Popcorn Company, Majestic Venetian Blind Company, Walnut Grove Products, and 10 or 11 others.

Q. What is the population of Atlantic, Iowa?

A. About 6,857.

Q. Now, Atlantic is located on U. S. Highway No. 6 between Des Moines and Omaha, Nebraska, is it not?

A. Yes, sir.

Q. And also located on the main line of the Rock Island Railroad?

[fol. 1586] A. That is correct.

Q. What is the position of the Atlantic Chamber of Commerce in this case? You appeared here as a witness before and you are appearing here now. Is it in support of the application?

A. That is right.

Q. What is the position of your organization with respec to this application?

A. Our primary interest in this application is twofold

Mr. Bradshaw: May I inquire?

Exam. Carpenter: Go ahead.

By Mr. Bradshaw:

Q. Are you here with any authority?

A. Yes, sir.

Q. Will you relate that authority?

A. I have written instructions here.

Q. From whom?

A. From the members of the Atlantic Chamber of Commerce.

By Mr. Nolan:

Q. Were you authorized to appear here on behalf of the Atlantic Chamber of Commerce?

A. Yes, sir, I was instructed to.

By Mr. Bradshaw:

Q. How many members?

A. Approximately 300.

Q. That instructed you to come here?

A. Approximately 40. The first interest is to continue good service to our retail outlets regardless whether it is motor or rail. The second: Atlantic, the same as any other [fol. 1587] city, is trying to progress, and we have made industrial surveys and made studies of our transportation facilities and found that we have good transportation facilities, which includes the Rock Island Motor Transit and which is giving us excellent service at the present time.

We advertise throughout the country as to the various facilities in the transportation field of the Rock Island Motor Transit.

By Mr. Nolan:

Q. State whether or not you have been able to interest new industry in Atlantic by reason of the general make-

up of the community and by reason of your transportation facilities?

A. Yes, we have several industries at the present time interested in locating in the City of Atlantic due primarily to the transportation situation at Atlantic because, being on U. S. 6, the principal transcontinental highway and being on the main line of the Rock Island between Denver and Chicago.

Q. And in your endeavor to get new industry to Atlantic you have included in your prospectus the transportation facilities offered the City of Atlantic by the Rock Island Motor Transit Company?

A. Yes, sir, that is correct, the existing service of the Rock Island Motor Transit as well as all other forms of transportation.

Q. Now, you do have other transportation companies operating in and through Atlantic, do you not?

A. Yes; we have the Iowa-Nebraska exercising the rights, Watson Brothers exercising the rights, the Rock Island [fol. 1588] Motor Transit and Merchants; however, the Des Moines Transit has rights but do not exercise them; I believe Bos is in there; there are seven altogether.

Q. Does the Rock Island Motor Transit have an agent there, a terminal office and facilities for the servicing of shipments, rates and claims and things of that character?

A. Yes, sir, they do have.

Q. Do any other Iowa or highway carriers operating through Atlantic have the same facilities?

A. No, sir; not that the Rock Island Motor Transport has.

Q. I assume your industries in Atlantic are small industries?

A. Top employment I would say is 125.

Q. I assume those industries do not have a full traffic department like a big industry does. Is that correct?

A. Only one.

Q. Which is that?

A. Walnut Grove products.

Q. I assume, in working with your industries in Atlantic and other points where you have served as Secretary of the Chamber of Commerce, it is necessary for such small industries to use the facilities of transportation agencies in regard to rates and routings and things of that character?

A. That is correct.

Q. Would you say the Rock Island Motor Transit does have that service available there and the other transporta-
[fol. 1589] tion companies do not?

A. That is correct.

Q. Are you familiar with the outbound destinations of your industries at Atlantic?

A. Yes, sir. The Majestic Venetian Blind ship throughout the United States; Walnut Grove serves primarily a seven-state area.

Q. What is the name of this venetian blind company?

A. The Majestic Venetian Blind Company.

Q. And it manufactures venetian blinds for office, homes and so forth?

A. Yes, sir, and supplies chain stores such as Gambles and so forth.

Q. What would be the effect of the elimination or substantial curtailment of the service of the Rock Island Motor Transit insofar as the business and industrial welfare of your city is concerned?

A. It would reduce our advantage. We feel fortunate having the transportation services which we do have. The Rock Island Motor Transit is the primary trucking firm of our city, and we have based our transportation situation along with the service of the Rock Island Motor Transit as well as the railroad, and it would hinder our contracts which we have made and which we intend to make in the future. A manufacturing company or any company is interested in the transportation facilities of a city before they locate in it.

[fol. 1590] Q. And from your observation has the Rock Island Motor Transit operated primarily and solely as a motor carrier and independent from the railroad?

A. Yes, sir, as independent as far as Atlantic, Iowa, is concerned.

Q. So far as you know has the services of the Rock Island Motor Transit been efficient and satisfactory to your people there?

A. That is right. I know that is correct.

Q. Have you ever had any complaints made to you of their service?

A. As a Chamber of Commerce we write various firms who have hauled stuff in to our various members in regard to claims and so forth.

Q. Well, have you had any such dealings with the Rock Island Motor Transit Company?

A. I have never written a letter to the Rock Island Motor Transit Company.

Q. But you have had occasion to write other trucking firms on claims?

A. Yes; the Iowa-Nebraska and Watson Brothers.

Q. And those complaints have been made at the request of your members?

A. That is right. Any claim should be handled in 6 months.

Q. And after 6 months you get after them?

A. We write a letter and maybe a second letter.

[fol. 1591] Q. What do you do after the second letter?

A. We go and see them.

Q. And you say you have never had occasion to file or make any complaints for your members with regard to the service of the Rock Island Motor Transit Company?

A. Not as yet.

Q. That day may come?

A. That day may come.

Mr. Nolan: That is all.

Cross-examination.

By Mr. Bradshaw:

Q. How far is Atlantic from Omaha?

A. Approximately 44 miles.

Q. You have a drayage man besides the Rock Island Motor Transit, do you not?

A. Yes, Smiley Transfer.

Q. Is it your contention rates can't be made through him?

A. He may have them available, that I won't say for sure, but he cannot read the rates. I mean I can read the rates better than he can.

Q. Do you maintain a rate service?

A. I have tariffs in my office.

Q. You don't depend, then, exclusively on the Rock Island Motor Transit, do you?

A. To any destinations they operate to, yes. Smiley is primarily an intrastate carrier.

[fol. 1592] Q. Don't these manufacturing companies have traffic departments?

A. Only one which is located there now.

Mr. Bradshaw: That is all.

Redirect-examination.

By Mr. Nolan:

Q. I didn't get who couldn't read the rates.

A. The Smiley Transfer man.

Mr. Nolan: That is all.

Mr. Bradshaw: Nothing further.

Exam. Carpenter: That is all. Thank you, sir.

(Witness excused.)

Mr. Nolan: Mr. Nielsen, please.

Niels C. Nielsen was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. You are——

A. Niels C. Nielsen.

Q. And you are from——

A. Audubon, Iowa.

Q. Do they call you Nels around Audubon?

A. No, sir.

Q. What business are you in?

A. I have a 5-cent to $-store, also a drygoods store.

Q. Are those separate stores?

A. Yes, sir.

Q. Those are owned by you?

[fol. 1593] A. Yes, sir.

Q. They are not chain stores?

A. No, sir.

Q. How long have you been in business in Audubon?

A. For 22 years.

Q. Where do you get your merchandise?

A. For the Dime Store I get it from Chicago; for the Drygoods store I get it from Minneapolis.

Q. What transportation service do you use in getting your merchandise in?

A. Rock Island Motor.

Q. How long have you been using them?

A. Ever since they started.

Q. How has that service been? Satisfactory or otherwise?

A. It has been satisfactory.

Q. Do you know of any other transportation company that will give you the same type of service as the Rock Island Motor Transit Company gives you?

A. I do not.

Q. Is that service daily?

A. Yes, sir.

Q. I believe you have a truck company from Des Moines serving Audubon, do you not, the Roberts Truck Line?

A. Yes. They headquarter in Audubon.

Q. Have you used that service?

[fol. 1594] A. I have a little.

Q. Do you get direct service from Chicago and Minneapolis by the Rock Island Motor Transit?

A. I do.

Q. Without transfer?

A. That is right, I do.

Q. If you used the Roberts Truck Line you would have to transfer at Des Moines?

A. That is correct.

Q. Have you used the Roberts Truck Line occasionally?

A. Once in a while.

Q. Do you direct all your shipments, whenever possible, to come Rock Island Motor Transit?

A. It is directed to so ship.

Q. Has that service by Roberts been satisfactory?

A. I would like to state one particular instance in regard to a shipment to the local hospital, a shipment of stainless steel which Roberts brought out from St. Louis, Missouri.

It came out on Saturday and laid there for a week. It was a shipment of stainless steel tables and things of that kind. That is the type of service we have been getting not only to the hospital but to the local merchants.

Q. And that service was not satisfactory?

A. No, not to anybody.

Q. Now, Mr. Nielsen, what would be the effect on your [fol. 1595] business if the Rock Island Motor Transit Company was either required to terminate its operations or substantially reduce its operations?

A. We would have to go back to the service we used before the Rock Island Motor Transit started operations which would have to be Rock Island rail which is slower and would not be the best of service.

Q. The service which you now get from Chicago and the Twin Cities, I presume, is second-day delivery?

A. That is right.

Q. How about the rail service?

A. We have had shipments in transit over a month by rail.

Q. Do you know of any other transportation agencies serving Audubon that can give you the same service the Rock Island Motor Transit has been giving you?

A. There is none.

Q. Then your business would be very severely harmed if the Rock Island Motor Transit Company were forced to curtail or cease operations?

A. It would decrease our capital considerably.

Q. You would have to anticipate your orders 2 or 3 months ahead of shipping date, would you not?

A. That is correct.

Q. What is the general makeup of the community of Audubon?

A. The population of Audubon is approximately 3,000. It has the same type of retail stores found in any county [fol. 1596] seat town. We have very few industries in Audubon. We have, however, the Carlson Hybrid Seed Company and the milling company; that is about all the industries we have.

Q. Do I understand that Audubon County is one of the highest per capita in the State of Iowa as far as agricultural is concerned?

A. That is right.

Q. How frequent do you get shipments in via the Rock Island Motor Transit Company?

A. Sometimes every day; once in a while we will skip 2 or 3 days.

Q. Does the Rock Island Motor Transit have daily service into Audubon?

A. They do.

Q. Do they give you pickup and delivery service?

A. They do. Alvin Roberts delivers our freight for the Rock Island Motor.

Q. That is a different Roberts than the one that runs the Roberts Truck Line?

A. That is correct.

Mr. Nolan: That is all.

Cross-examination.

By Mr. Bradshaw:

Q. Mr. Nielsen, do you have any other motor carriers that go into or through Audubon other than Roberts and the Rock Island Motor Transit?

A. Yes, there are other carriers coming in there.

[fol. 1597] Q. Can you name them?

A. No, I can't.

Q. Does Iowa-Nebraska Transportation Company sound familiar to you?

A. I have seen their truck in there.

Q. And does Kennard?

A. No, I don't know of Kennard.

Q. How about Bos?

A. I haven't seen their truck in Audubon for years. They used to come in there but I haven't seen them for a long time. Brady used to come in there.

Mr. Bradshaw: That is all.

Exam. Carpenter: Redirect.

Redirect-examination.

By Mr. Nolan:

Q. As I understand your testimony, Mr. Nielsen, whereas some of those truck companies come in there occasionally,

none of them, so far as you know, maintain any scheduled service in and out of Audubon? Is that right?

A. That is right.

Q. At least they never called upon you and offered you any such service, have they?

A. No.

Mr. Nolan: All right. That is all.

Mr. Bradshaw: No further questions.

Exam. Carpenter: That is all. You are excused.

(Witness excused.)

[fol. 1598] Mr. Howland: Mr. Christoffersen, please.

Carl M. Christoffersen was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, please?

A. Carl M. Christoffersen.

Q. And you live where, Mr. Christoffersen?

A. In Hamlin, Iowa.

Q. Hamlin is located where with reference to Audubon?

A. Four miles south on 71.

Q. Hamlin is situated at the junction of Highway 64 extending east and west and I believe it is Highway 71 that extends north and south?

A. That is right.

Q. What type of community is Hamlin? That is, as to size and the establishments there.

A. It is just a small place of about 150 population.

Q. What is the nature of the business concerns there?

A. We have a grocery store and a locker plant and a lumber yard and several oil stations and the Post Office.

Q. Do you operate a locker plant there?

A. That is right.

Q. Do you have occasion to have supplies and equipment shipped into Hamlin from time to time?

A. Just supplies primarily is all we are getting now.

[fol. 1599] Q. From what points do you get your supplies?

A. Primarily Des Moines.

Q. Do you get any shipments from outside the State of Iowa, or do any of the other merchants there have shipments coming in from out of the State of Iowa?

A. Well, from Omaha, yes.

Q. What service do you have from Omaha, Nebraska, other than the Rock Island Motor Transit?

A. The Roberts Transfer.

Q. Is there any other service besides those two lines?

A. Iowa-Nebraska goes through there, but they do very little business there.

Q. Do they render a regular, daily service to Hamlin?

A. No. They go through there but they don't ever stop.

Q. It is just more of a casual arrangement?

A. Yes.

Q. Would the elimination of the Rock Island Motor Transit service from Omaha, Nebraska, affect your business there, Mr. Christoffersen?

A. Not from Omaha, no. We don't get anything from Omaha.

Mr. Howland: I think you may cross examine.

Mr. Bradshaw: No cross examination.

Exam. Carpenter: That is all. You are excused.

(Witness excused.)

Mr. Howland: Mr. Petersen, please.

[fol. 1600] Ernest Petersen was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, please?

A. Ernest Petersen.

Q. You are living at Hamlin, Iowa?

A. Yes.

Q. What is your business, Mr. Petersen?

A. I run a grocery store.

Q. Do you have some general merchandise lines?

A. Yes, we do.

Q. What is the source from which you get your merchandise? Where do you buy your goods?

A. Well, we get our work clothing out of Illinois.

Q. How about your grocery and food lines?

A. Most of that is brought right from the grocer houses.

Q. That is delivered direct by the wholesalers?

A. That is right.

Q. Does that come from Audubon or primarily from Des Moines?

A. From Des Moines and Omaha.

Q. But the wholesalers maintain truck delivery service to your community?

A. That is right.

Q. With reference to shipments from outside the state; how frequently do you have occasion to have shipments in [fol. 1601] there from Illinois points?

A. Oh, sometimes we have them weekly, sometimes twice a week, sometimes every other week. It all depends on what we need.

Q. Depending on the volume of your business, what you have been buying and what the demand is at the particular time?

A. That is right.

Q. Who brings your shipments from the east to you there?

A. The Rock Island Motor.

Q. Is there any other service from eastern points into Hamlin than the Rock Island Motor Transit Company?

A. Well, the Iowa-Nebraska stops not very often; once in a great while they will stop.

Q. Do they render a regular service into Hamlin?

A. No.

Q. Is it more casual or intermittent?

A. It is just for dropoffs.

Q. Do I understand the trucks of the Iowa-Nebraska frequently go through without stopping?

A. Oh, yes.

Q. What kind of service have you had from the Rock Island Motor Transit Company on your shipments from out of the state?

A. Just perfect.

Q. In the event that service would be eliminated entirely or substantially reduced, would that affect your ability to get merchandise into Hamlin for your business?

[fol. 1602] A. Well, I don't know. We would have to look for some other transporter.

Q. Well, other than Iowa-Nebraska, does Roberts serve Hamlin?

A. They do once in a while.

Q. Is that a regular service?

A. Well, it all depends where it comes from. If it comes from Omaha, Roberts will bring it.

Q. In other words, Roberts operates primarily as an Audubon-to-Omaha and Omaha-to-Audubon carrier?

A. That is right.

Q. That is their principal operation as you have observed it? Is that right?

A. That is right.

Q. Do you have any information about whether the service of the Roberts Transfer from the east, that is from Des Moines to Audubon, is to be continued?

A. That I don't know anything about.

Mr. Howland: I think that is all.

Exam. Carpenter: Cross examine.

Cross examination.

By Mr. Bradshaw:

Q. If you call Iowa-Nebraska and tell them you have something to ship, they will stop, won't they?

A. I never tried it, but I don't think they would.

Q. And these trucks of theirs, which you say go through, would stop there to drop off something if they have any-[fol. 1603] thing for them?

A. I imagine.

Mr. Bradshaw: That is all.

Redirect-examination.

By Mr. Howland:

Q. How far is it from Hamlin over to Avoca?

A. Gosh, I don't know.

Q. Somewhere in the neighborhood of 18 or 20 miles, isn't it?

A. More than that.

Q. Of course, none of the carriers have any freight depot there in Hamlin. Isn't that true?

A. That is right; they do not.

Q. And the only way you could contact Iowa-Nebraska would be to call Avoca. Wouldn't that be true?

A. That is right.

Q. These Iowa-Nebraska trucks that come through from the west, do you know whether they are loaded or empty, or what the situation is?

A. I would not know.

Mr. Howland: That is all I have.

Exam. Carpenter: Recross.

Recross examination.

By Mr. Bradshaw:

Q. Who do you call when you call the Rock Island Motor Transit?

A. We just have them bring the stuff to our door, and they will ask us when we want them to pick up anything and we will tell them.

[fol. 1604] Q. Do they have a freight agent there?

A. No.

Q. The closest one is at Audubon?

A. Yes.

Q. Do you have any dealings with him?

A. Very little.

Q. Where would you file your claims if you had any?

A. I wouldn't know. I never had any.

Mr. Bradshaw: That is all.

Mr. Howland: No further questions.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Howland: I will call Mr. Clark.

Riley Clark was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, please?

A. Riley Clark.

Q. And you live where, Mr. Clark?

A. At Lewis, Iowa.

Q. Now, Lewis, Iowa, is located where with reference to Atlantic, Iowa?

A. Lewis is at the junction of 6 and 92. We are 8 miles west and a half a mile south of Atlantic, and 50 miles out of Omaha.

Q. You are 8 miles south and a half a mile west of Atlantic?

[fol. 1605] A. Yes. It would be more south than west of Atlantic.

Q. What is the size of Lewis? What population does it have?

A. I would say between 500 and 600.

Q. It was formerly on a branch of the Rock Island Railroad?

A. That is right.

Q. And it was abandoned some years ago?

A. When they took the rails our of there, the older people more or less figured the Rock Island was going to serve them by truck.

Q. You have no rail line in Lewis?

A. No.

Q. What business establishments and what concerns are located there?

A. Well, my father-in-law and I each have a machinery and general garage; we have Ferguson Implements; we have Marker's Hardware; Joyce Lumber Company has a large yard there; we have a man, Millard Cavin, who has a cabinet shop, he does fine wood work; we have a Standard Oil Service man there, he gets all his pipe and fittings and his pumps and stuff by Rock Island Motor.

Q. Does he run a bulk station?

A. No; he serves a large territory around there. We have a bulk station there too.

Q. And I suppose there is a general store there too?

A. That is right. We have two stores, a drugstore and the Post Office, and another garage.

Q. Now, your town is located right at the junction of [fol. 1606] Highway 92 and U. S. Highway 6?

A. That is right.

Q. Highway 6 comes in the northerly edge of town?

A. That is right. It used to run right by our door, and they moved it. It was moved a half mile north of town.

Q. Do you have any shipments brought into your place of business there from outside the State of Iowa?

A. Well, fairly often we do.

Q. From what points do you get such shipments?

A. Mostly from Chicago.

Q. Are those shipments principally smaller implements and parts?

A. It would be mostly parts. We have 24-hour wrecker service and in that business we need axles and parts on heavy trucking equipment, things we have to have for emergency service. You can't even get them from Atlantic; it would hold us up getting them from Atlantic.

Q. In other words, you are a small community located down there, and if you don't have substantially the same service on replacement parts and matters of that sort as the larger towns like Atlantic have, you would be handicapped. Is that right?

A. Yes, and it is more than that. I have a letter here from the merchants; this Joyce Lumber Company gets all their stuff from Chicago and he says, "I can get at least 2 days' service", and he says he has stuff laying over in Atlantic for a week. If it is brought in there by the Rock Island Motor Transit it is laid down at the door.

[fol. 1607] Q. Is there any other carrier that performs any regular service into the community of Lewis other than the Rock Island Motor Transit Company?

A. There is a private concern that runs out of Greenfield, Iowa, for Omaha, Bob McVay.

Q. Now, the McVay Truck Line has its eastern terminus at Greenfield, which is the county seat town about 20 or 25 miles east.

A. It is 30 miles.

Q. It is 30 miles east of Lewis on Highway 92.

A. I think their primary purpose is to pick up freight in Omaha and deliver east as they go.

Q. Do they have another connecting carrier with whom they can interchange freight from the east coming into Lewis?

A. Not that I know of. They are a little bit like Roberts up around Audubon.

Q. They do pick up freight at Omaha, Nebraska, which has been brought in by other carriers and deliver that freight on their eastward movement?

A. That is my understanding.

Q. Now, you said a moment ago something about having a petition that was signed by the business men or the merchants there in Lewis.

A. We had a meeting last night, and I have a letter from our community. We just didn't dream of such a thing coming to pass. We depend on the Rock Island Motor Transit [fol. 1608] Company; and we had this meeting last night, and it was such short notice, and I am down here today to see what could be done.

Q. Were you authorized to speak for them, while in attendance at that meeting, in the hearing here today?

A. That is right.

Q. If this Rock Island Motor Transit service were cut out altogether or the service was reduced to, say, once or twice a week, what effect would that have on business in Lewis?

A. I was thinking about that a while ago. It would put an embargo on this distance between Lewis and the highway. It would just upset us. Our machinery would lay over in Atlantic; the same way with the lumber yard's shipments. Such an embargo was placed a little over a year ago, and that brings back to me what we would be up against if the service of the Rock Island Motor Transit stopped altogether.

Q. Do you think you would be able to continue your business in the same manner you have done heretofore?

A. No, we couldn't. We would have to invest in a truck of some kind, which we don't want to do, and it would just run us into a lot of trouble. These shipments are all small shipments and it wouldn't pay us to attempt to fool with them; we can't afford to have someone handle them for us. We are a small town, and that is why we had this meeting last night. They all feel the same way about it.

Q. And you feel the continuation of the Rock Island [fol. 1609] Motor Transit Company's service to your community is essential to the continued existence of the community?

A. I personally feel I cannot see any reason for not continuing it. We have been dependent on it for a long time, and there isn't any use of us not having it. I guess Watson and maybe Merchants and even Iowa-Nebraska have rights through there, but they are through transports;

you wouldn't catch them slowing down for us.

Q. Have any of those concerns ever made deliveries of any merchandise in your town?

A. Not that I know of; they handle strictly through freight. I work on wrecker service 24 house a day and I get a lot of calls from those boys and I have noticed it is all through service they are handling.

Q. You referred a bit ago to shipments tied up in Atlantic. Was that while there was an embargo on the highway?

A. Yes.

Q. Were such shipments handled by the Rock Island Motor Transit Company or some other carrier?

A. Well, in this particular situation it was the Rock Island Motor Transit; that embargo would not let them deliver to us and they left it at the Rock Island depot at Atlantic.

Q. In other words, the embargo was on the gravel highway?

A. That is right. It is 6 miles from Lewis to Highway 71, and we are a half a mile from the blacktop, and they put [fol. 1610] an embargo on the whole thing.

By Exam. Carpenter:

Q. Who put the embargo on? The State of Iowa or the Rock Island Motor Transit?

A. Well, the State Highway Commission did. The thing we were complaining of, although we were on the gravel such a short distance, it stopped our freight.

By Mr. Howland:

Q. If your shipments came into Atlantic and there were no Rock Island Motor Transit service, as I understand it, it would be necessary for you to operate a truck of your own to get those shipments out to Lewis. Is that right?

A. That is right. Nobody would haul it down there.

Mr. Howland: I think you may cross examine.

Mr. Bradshaw: No cross examination.

By Mr. Nolan:

Q. Mr. Clark, have you had any experience where some other trucking company other than the Rock Island Motor

Transit Company brought shipments to Atlantic and left them for you?

A. No. Our stuff always comes via the Rock Island Motor Transit. The time I spoke of where we had the trouble was when they had that embargo on.

Q. I was under the impression you had some experience where some other carrier brought a shipment for you and left it for you at Atlantic, Iowa.

A. Well, that stuff came express, but it is the same principle. In other words, if axles and emergency parts [fol. 1611] come by express and we have to go to the express office and get them, by the time he sends us a card it takes a day to get that card. There is another thing to consider and that is that the man in Atlantic is there only part of the time. We have to get hold of him before we can get our shipments.

Q. You mentioned something about having a meeting of the merchants and people of Lewis. Was that your Commercial Club?

A. Members of the Commercial Club.

Q. Your civic organization is the Commercial Club; that is the Civic Chamber of Commerce?

A. That is right. It was a specially called meeting.

Q. Did the members there sign a petition for you to represent them at these proceedings?

A. Yes.

Q. Do you have that petition with you?

A. Yes, sir.

Mr. Nolan: I will offer this document for identification.

Exam. Carpenter: It will be marked as applicant's exhibit No. 21.

(The document referred to was marked as "Applicant's Exhibit No. 21, Witness Clark", for identification.)

By Mr. Nolan:

Q. I will hand you what has been marked for identification as exhibit 21 and ask you if you were present when that document was signed and if you know the signatures and the occupations of the signators on that document? [fol. 1612] A. That is right.

Q. You are personally acquainted with all of them and they signed that paper in your presence?

A. That is right.

Mr. Nolan: I offer in evidence document which has been marked for identification as exhibit No. 21.

The Witness: Those people who signed that— We are in a small community and we have to have service.

Mr. Bradshaw: I object to the exhibit unless the parts pertaining to the various shops and garages and lumber yards in the town are deleted, as we didn't have an opportunity to cross examine these people who are endeavoring to put evidence in here of some sort of service they may or may not be able to get.

As far as the signatures are concerned, I don't care about them, but this letter goes too far and it offers evidence without the opportunity of cross examination.

Exam. Carpenter: The objections are overruled. The document, consisting of two sheets, is received in evidence as exhibit No. 21.

(Applicant's exhibit No. 21, Witness Clark, was received in evidence.)

Mr. Howland: I think that is all we have with the witness.

Exam. Carpenter: Do you have anything further?

Cross examination.

By Mr. Bradshaw:

Q. How did you happen to call this special meeting [fol. 1613] last night?

A. This thing has been going on for quite some time, and we just heard about this thing, and we can't imagine how it will affect service.

Q. Was there a representative there from the Rock Island Railroad or the Rock Island Motor Transit?

A. There wasn't a representative there last night. This driver the other day said he was operating on temporary permit.

Q. This was a ground swell from the community and it froze up?

A. Yes.

Mr. Nolan: That is all.

Mr. Bradshaw: No further questions.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Howland: Mr. Lensch, please.

H. A. LENSCH was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you give us your name, please?

A. H. A. Lensch.

Q. You live where?

A. Exira, Iowa.

Q. Exira is located where with reference to Atlantic and Audubon?

A. Well, it is on Highway 71 approximately 17 miles north of Atlantic and 9 miles south of Audubon.

[fol. 1614] Q. What business are you engaged in, Mr. Lensch?

A. I am in the implement business. We have an Oliver contract and a New Idea contract. We have also plumbing and heating, and we also render a water-system, repair-work service for the farmers.

Q. How long have you been engaged in business there at Exira?

A. Since 1944.

Q. Now, you handle the Oliver equipment line?

A. That is right.

Q. And the New Idea line?

A. That is right.

Q. And then you render a plumbing and heating service as well as the water service?

A. That is right.

Q. That includes both farming water systems and home water systems?

A. Correct.

Q. I take it, in your Oliver farm equipment and implement line, you get shipments from different points?

A. Yes; Omaha, Des Moines, Charles City, and we do have occasional shipments coming out of Springfield, South Bend and Battle Creek.

Q. That would encompass what items?

A. Items not carried in stock in branch houses where we get direct factory shipments.

[fol. 1615] Q. In other words, the Oliver Farm Equipment Company has manufacturing plants at those other locations?

A. Right.

Q. And there are replacement and repair parts which you order and which are not stocked in either Omaha or Des Moines?

A. That is correct.

Q. And those are shipped direct to your company?

A. Yes.

Q. Exira has about what population?

A. Oh, I would say approximately 1,300.

Q. What types and kinds of business establishments are located there?

A. Well, we have a large creamery; we also have the Cozy Manufacturing Company which prefabricates ready-made homes, and granaries.

Q. Is that a sort of a ready-cut, farm-building establishment?

A. That is right.

Q. Any other manufacturing concerns that are located there?

A. No. We have a wholesaler in town.

Q. What is his line?

A. Electrical.

Q. Electrical appliances and electrical supplies, wiring?

A. Electrical supplies mostly.

Q. In what territory does he distribute?

A. Well, Mr. Spoo is here and I would sooner have you [fol. 1616] question him as to the territory. I am not familiar with it.

Mr. Howland: All right. We will ask Mr. Spoo about that.

By Mr. Howland:

Q. Now, with respect to these New Idea farm implements which you handle, do you have shipments coming into Exira for implement parts?

A. Yes, implement parts. Manure spreaders, the larger

machines, corn pickers and the like, they are usually brought in by rail or we go into Omaha and pick them up with our own truck.

Q. Where do you get your New Idea parts from?

A. Well, the bulk of the parts would come out of Omaha. I don't know whether you are familiar with it or not but our repair catalogs have a symbol or a code for us whereby we order certain parts. The symbol indicates they do not have it at Omaha and they recommend us ordering it direct from the factory.

Q. They have a factory where?

A. Out at Cold Water.

Q. Your plumbing and heating supplies come from what points?

A. I would say 90 percent of it from Omaha and Des Moines.

Q. Would that include your water service supplies?

A. Well, no, not necessarily. We receive some water service supplies from Beatrice, I believe.

Q. Is that from the Dempster Mill Manufacturing Company?

A. That is right; and we have hand mills coming in from Hastings, Nebraska.

Q. That is parts?

[fol. 1617] A. Complete machines.

Q. And you handle those also?

A. Yes.

Q. That is these portable hand mills?

A. Well, portable or stationary.

Q. Either one?

A. Either way.

Q. What service have you been using to get your shipments into Exira from points primarily outside of the State of Iowa? This hearing is concerned with interstate shipments primarily?

A. Well, we usually specify Rock Island Motor Transit if it is available at the other end. Otherwise, we usually specify "best way".

Q. What has been your experience in having shipments come in by Rock Island Motor freight?

A. Well, I would have to say good, very satisfactory.

Q. Now, do you have any other service to Exira?

A. Yes; we have Roberts Transfer from Audubon.

Q. Do you know from what points Roberts performs that service? Is it primarily from Omaha, or does he also come in from the east?

A. He comes in from Des Moines also. We have used him from both directions.

Q. Have you been informed that Roberts is giving up his Des Moines-to-Audubon service?

[fol. 1618] A. I heard a rumor to that effect today. I don't know whether there is any truth in it. I would not say.

Mr. Howland: We will make a showing with respect to that, I think, if the Examiner please.

By Mr. Howland:

Q. In event Roberts should discontinue his service would you have any regular, continuous service from the east outside of the Rock Island Motor Transit?

A. Not to my knowledge. Iowa-Nebraska do come into town but it is not a regular service. I think they have a contract with the creamery company.

Q. In other words, they handle the creamery shipments in large quantities moving to the east?

A. That is right.

Q. That would be truckload quantities of butter, eggs and things of that sort?

A. Yes.

Q. If this Rock Island Motor Transit service were to be discontinued to Exira or if it were to be reduced from the present service down to, say, twice a week, would that affect your business in any way?

A. Well, I think probably it would have some effect on it.

Q. Well, just tell the Examiner how it would affect you.

A. Well, if we want emergency shipments, regardless whether coming out of Omaha or Des Moines or out of state, we invariably always specify Rock Island Motor Transit Company because we do have faith in them. They [fol. 1619] have given us good service. We always specify Rock Island.

Q. On shipments from Omaha, how long does it ordinarily take you to get a shipment delivered at Exira after you order it out from Omaha?

A. We have had overnight service. Through emergency we have had, where we call the wholesaler at Omaha like today at noon, had the shipment delivered tomorrow morning which lots of times is oftener than mail service or parcel post service.

Q. That service has been rendered by the Rock Island Motor Transit Company?

A. Yes.

Q. How frequently in your business do you have shipments from points outside of the State of Iowa?

A. I can't answer that correctly. I would say several times a month.

Q. Do you have any large shipments where the shipments will run over 5,000 pounds in weight?

A. No, not very often. That would not happen too often.

Q. About what do your shipments customarily run in weight?

A. Oh, they would run all the way from 50 pounds up to 4,000 or 5,000 pounds.

Mr. Howland: I think you may cross examine.

Exam. Carpenter: Cross examine.

Mr. Bradshaw: No cross examination.

[fol. 1620] Exam. Carpenter: That is all. Thank you, sir.

(Witness excused.)

Mr. Howland: Mr. Spoo, please.

RONALD SPOO was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. State your name, please.

A. Ronald Spoo.

Q. Do you live at Exira, Mr. Spoo?

A. Yes, I do.

Q. What is your occupation?

A. I own a hardware store there, and in addition to that I have a wholesale electric business.

Q. And this hardware store, I take it, is a retail store?

A. Yes.

Q. And you carry in that store what, if you know, in addition to the usual line of hardware goods? Do you have appliances?

A. We have appliances, general hardware, plumbing and heating, floor covering; it is a pretty complete store.

Q. You have a floor-covering line you say?

A. Yes.

Q. You also handle farm supplies such as tank heaters and the like?

A. Yes, some rural supplies. We don't go into implements or anything connected therewith.

[fol. 1621] Q. How about water service supplies? Do you handle those?

A. No.

Q. Is this wholesale electrical business a separate establishment?

A. Yes, it is.

Q. What do you handle in that line?

A. Just general electrical supplies such as wire, conduit, light fixtures, switches, just electrical supplies. We don't go into appliances in the wholesale business, not household appliances such as toasters, irons and articles of that sort.

Q. To whom do you sell your electrical equipment and supplies?

A. To electricians who are out doing this work throughout the territory, to variety stores. We cover an area approximately 70 miles each direction from Exira.

Q. And that would extend west out to Harlan, east to Greenfield, north to Wall Lake, south to Corning and Creston?

A. That is right.

Q. What is your source of supply with respect to your electrical line?

A. Practically everything we get comes from the east coast, New York, Rhode Island, Massachusetts, a lot of merchandise from Philadelphia; and some from Denver.

Q. On your shipments from the east, how do you cus-

tomarily get those in? Do they come by motor freight or some other form of transportation?

[fol. 1622] A. It seems to be about fifty-fifty rail freight and Rock Island Motor Transit freight.

Q. Some of it is shipped by motor carrier through the Chicago gateway direct, is it not?

A. Yes; it comes to Chicago, I believe, International Forwarding Company and the Rock Island Motor Transit picks it up at Chicago.

Q. How is the railroad freight handled there as far as delivery service at Exira is concerned?

A. The same.

Q. It comes in to the Rock Island Freight House on the trucks?

A. That is right. Occasionally it is delivered direct to our door.

Q. Who collects the freight on your rail shipments?

A. Well, there is a young fellow there in town who has a truck of his own who picks up for the railroads.

Q. Are your Motor Transit shipments delivered direct to you?

A. Some of them; and some of them are delivered, I presume, at the freight house and he brings them up. I am not sure where he picks them up.

Q. They are delivered by the local drayman there?

A. That is right.

Q. How much would these shipments from the east weigh?

A. They will vary from 200 pounds— Oh, occasionally we will get a shipment of wire in that will go up to 10,000 pounds.

[fol. 1623] Q. Does that come either by motor freight or by the rail?

A. Either way.

Q. Both ways?

A. Yes. We don't specify how it is to be shipped, usually just "best way"; but it seems like it is evenly divided.

Q. You do have these motor freight shipments coming in, do you, that weigh as high as 10,000 pounds on a single shipment?

A. Yes, we do.

Q. Now, with respect to your hardware lines, what are your sources of supply of the goods you handle in your hardware store?

A. Practically everything comes out of Des Moines; there is a little from Omaha and a little from St. Joe, Missouri; but I would say 80 percent of it from Des Moines.

Q. Do you know by what line your shipments from St. Joe, Missouri, and Omaha, Nebraska, customarily come into Exira?

A. No, sir, I cannot say. I am not acquainted with that.

Q. How has the service that has been performed by the Rock Island Motor Transit Company been with respect to being satisfactory or otherwise?

A. It has been excellent; we have had very good service; but speaking from the standpoint of the wholesale business I would like to say that our claims service has been excellent in that respect. On shipments of light fixtures where there is a lot of glassware we do have damage that just can't be helped, but since the Rock Island Motor Transit has been hauling most of it we have had a minimum amount [fol. 1624] of damage; and when I present a claim I can depend on having that claim settled within one month.

Q. Have you had experience with other motor carriers than the Rock Island Motor Transit from the claim standpoint?

A. Roberts Transfer gets one of those shipments occasionally, and when we have very much hauled by them we have plenty of damage and have a lot of trouble collecting on claims.

Q. That is, as far as the claim payment angle is concerned it is slower and requires a longer period of time for adjustment?

A. That is right.

Q. If the Rock Island Motor Transit service to Exira were to be eliminated or substantially reduced, would that have any effect on your business?

A. In the respect that it would slow us down in receiving shipments from the east it would. Shipments by rail from the east coast has taken as much as a month and a half to reach us after date of shipment. What happens to them I don't know. Anything from the east by truck we

have noticed it comes through in a week up to three weeks; but it has cut it down quite a bit and it has cut down, in turn, our capital investment in merchandise.

Q. In other words, you don't have to anticipate your requirements as far ahead if you can get your shipments in within a week or ten days from the time the shipment is made?

A. One of the important factors in the wholesale business is a quick turnover and to turn it quick you have to get it quick.

[fol. 1625] Q. Do you handle any of these knocked-down farm buildings or matters of that sort in your business?

A. No, we do not.

Q. What is the name of the concern that handles those?

A. Cozy Manufacturing Company.

Q. Is there any representative here from that concern?

A. No, there is not.

Q. On this wholesale electrical supply line, do you maintain salesmen in your territory?

A. Yes, we have a truck on the road. We haul the merchandise out and they pick their merchandise from the truck.

Q. That is, you have a rolling electrical supply store which you take out direct?

A. Yes, sir. The result is we ship very little merchandise out of Exira other than by parcel post.

Q. You are primarily interested in the inbound service to Exira as far as interstate points are concerned, points in the eastern part of the United States, and Chicago; St. Joseph, Missouri; and Omaha, Nebraska?

A. That is right.

Mr. Howland: I think that is all I have.

Exam. Carpenter: Cross examine.

Cross examination.

By Mr. Bradshaw:

Q. You say you have frequent claims in your electrical fixture business?

[fol. 1626] A. Yes, we do.

Q. Who do you file your Rock Island Motor Transit claims with?

A. We file them in Des Moines. We started filing them here.

Q. In other words, you just keep a supply of blanks on hand?

A. Yes, that is right.

Q. Now, does not your Rock Island Motor Transit freight come in under rail billing?

A. Motor freight under rail billing?

Q. Yes.

A. None that I know of.

Q. Do you know?

A. Well, I can't say as to that. As I stated here a few minutes ago, a lot of this freight is hauled by the same carrier from our depot.

Q. Well, isn't this true, the cartage gentleman there brings you both your motor freight and your rail freight?

A. Yes.

Q. So you have no way of identifying it unless you study the bills?

A. That is right.

Q. And you haven't had occasion to do that?

A. No, I haven't.

Mr. Bradshaw: That is all.

Mr. Howland: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

[fol. 1627] Exam. Carpenter: We will have a 5-minute recess.

(Recess.)

Exam. Carpenter: We are reconvened.

Mr. Howland: I will call Mr. Emory.

VICTOR L. EMORY was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, please?
A. Victor L. Emory.
Q. Your home is where, Mr. Emory?
A. St. Joseph, Missouri.
Q. What is your occupation?
A. I am the Transportation Commissioner of the St. Joseph Chamber of Commerce.
Q. What particular types of industries are located at St. Joseph, Missouri, which serve in that part of the Iowa territory located on or adjacent to U. S. Highway 6 and for a distance of some miles both north and south of that highway?
A. Our principal manufacturers are work clothing manufacturers, candy manufacturers; in addition to that we have a number of wholesalers, one in particular being the Wyeth Company that distributes in a wide area and has for some 100 years.
Q. What is the particular line of that wholesaler?
A. Hardware, saddlery, sporting goods and furniture.
Q. All right. Proceed with your statement.
[fol. 1628] A. Our other important wholesale items are electrical goods, drygoods and drugs. All of those wholesalers distribute in the Iowa area along Highway 6.
Q. Have you been authorized to appear here on behalf of the St. Joseph Chamber of Commerce?
A. Yes, I have. That was handled in our Chamber of Commerce by vote of the Transportation Committee and that vote was taken at a meeting on March 13th.
Q. At that meeting was the question of the limitation of 5,000 pounds maximum, under which the Rock Island Motor Transit Company has been operating, a subject of consideration?
A. Not at that meeting; but just subsequent to that in a telephone poll of the committee we developed their desire to have a request made that the application, if possible,

be amended to eliminate the restriction that was in the application as we received it.

Q. You understand, do you, that the application has been amended so that the 5,000-pound restriction is now eliminated so far as the application itself is concerned and that the matter has been thrown open for action by the Commission?

A. I so understand from hearing so today.

Q. What method of distribution is customarily followed by the members of your Transportation Department of the St. Joseph Chamber of Commerce in distributing their merchandise into this territory that is involved? On that [fol. 1629] category, do they maintain warehouses, do they ship direct to dealers, or do they sell direct to the consumer?

A. The Chamber of Commerce itself or its Transportation Department routes no freight for its members. The shippers that are members of the Chamber and members of the Transportation Committee use all forms of transportation, but specifically a large proportion of the total is by common carrier by motor vehicle.

In the case of work clothing, some estimated 95 percent of it moves via common carrier truck. Other distribution is direct to retail stores and generally it finds its way into every retail store in the area they serve, and that is a very wide area extending as far east as Illinois and as far west as Montana and western Colorado and New Mexico and Texas.

In the case of the Wyeth Company, the wholesaler hardware firm, their distribution is direct to the hardware retail stores and in some cases retail furniture stores, and they ship, almost without exception, to every hardware store in an 8 or 9 state area including Iowa and Missouri east of St. Joseph and to plants generally south, north and west of St. Joseph.

In the case of the American Electric Company, their distribution is somewhat narrower, but it does include some points along Highway 6 in Iowa and points in southern Nebraska and west to the Colorado border.

The whole-sale drug house has a distribution pattern to retail drug stores and generally about the same area as

[fol. 1630] described for the electrical wholesaler. Each of these make shipments direct to the retail outlets.

Q. Now, your shippers located in St. Joseph, Missouri, make shipments into this territory generally in what quantities?

A. Well, the preponderance of the shipments are under 500 pounds of the firms that I described; and some of the smaller firms that I haven't mentioned ship larger quantities at times; feed manufacturers, serum manufacturers usually have the smaller shipments, but sometimes they ship as much as four and five thousand pounds.

While it is not a general shipping practice, there are times when our packers, our very large national packers, make shipments ranging from small minimum shipments up to five and six thousand pounds, but those are not regular shipments.

Q. One of the industries located in St. Joseph, Missouri, I believe is the meat-packing industry?

A. Yes. It is a very large and important part of our total industrial strength, and actually comprises about 20 to 23 percent of our total labor force.

Q. And that is in addition to those other concerns you referred to?

A. Yes, sir.

Q. As comprising the shippers who are interested in the service along Highway 6 across the State of Iowa?

A. Sure.

[fol. 1631] Q. You have been connected with transportation work for about how long a period of time all told?

A. About 30 years.

Q. During that time I take it you have seen the development of the present motor carrier industry in the United States from its very earliest days. That is correct, is it not?

A. I will say, "Yes".

Q. In connection with the motor carrier service do you have an opinion as to whether a service can be performed under present-day conditions to the intermediate smaller points without also including a service to the larger centers of population in this case, points such as Des Moines, Iowa; Omaha, Nebraska, and similar centers of population?

A. Well, from my experience in being before rate bodies of motor common carriers, I have observed that generally the carriers who are serving the smaller points, or are forced to serve them through shipper pressure, find that the tonnage to the smaller towns is not sufficient to carry the entire line without the larger towns, that they have light loads with costs still running proportionately the same; and, with some few exceptions, the very small carriers seem to not only need the larger towns but are constantly fighting for our shippers who serve large and small towns alike.

Our biggest fight is to keep the larger lines serving the smaller points that their certificate calls for, but they seem [fol. 1632] unwilling to serve because of the added cost without added revenue.

Q. Have you observed that there is a general trend in the motor carrier industry to concentrate on what might be referred to as overhead sl ›ments, or point to point shipments, as compared to service to intermediate communities of smaller population?

A. Yes, very definitely. Particularly at general rate committee meetings of the Middlewest Motor Freight Bureau I find carriers' representatives pointing out constantly that they lose money on the smaller towns and that they wished the St. Joseph Chamber would not be as insistent on complete service as we are because of the fact that they tell us they are losing money at these smaller towns. And we are just as insistent that they serve all of the points for which they have certificates.

Q. And are some of the carriers, who have taken the position you refer to, carriers operating in the Iowa territory?

A. Yes. One of them that stands out, the actual example I am thinking of, is over in the State of Kansas. Just recently Watson Brothers notified some of our shippers, and it was the result of some further correspondence, that they desired not to serve certain small towns that have been served and are being served by a small carrier named Ragland Truck Lines. While it was not with complete agreement, the wholesale hardware firm, before referred to, has at the moment dropped their protest to the lack

of service by a carrier in that territory just west of St. [fol. 1633] Joseph on Highway 36.

Q. As you have observed, is that the same trend on the part of the carriers noticeable in the south half of Iowa as well as Missouri and eastern Kansas?

A. Without having any specific examples, my observations would include that territory because of the general observations made at meetings such as I earlier referred to, that certainly the southern Iowa territory is included in that group of carriers or that class that apparently would like to serve only the larger towns where more tonnage is available.

Q. Mr. Emory, I will ask you if you are familiar in a general way with the service rendered by the Rock Island Motor Transit Company in the communities on and adjacent to U. S. Highway 6 through the territory extending from Omaha east to Des Moines and thence on to the eastern border of the State of Iowa?

A. In discussing the service of the Rock Island Motor Transit with two or three of our larger shippers I find that their experience in the territory that you described is that the service of the Rock Island Motor Transit is quite satisfactory.

Q. What would you say as to whether there is a need for the continuation of the service of the Rock Island Motor Transit Company in this general area, particularly to small intermediate centers of population?

A. Certainly there is such a need, and St. Joseph welcomes the application of any motor carrier who expresses [fol. 1634] a willingness to serve the small points, because it is a continuing problem with us and quite possibly to any territory. Where we are offered that service we would lend our strong support because it is a continuing problem for us to try to continue to serve the small towns where our customers are located.

Q. With respect to the restriction of a maximum of 5,000 pounds per shipment, I believe some action was taken with respect to addressing a letter in support of an amendment to the application urging the Rock Island Motor Transit Company to apply for an elimination of the 5,000 pound maximum limitation.

Q. Is there anything further you can add to what you have already said about that?

A. Well, only this: In the time I have been at the St. Joseph Chamber, some 3½ years, I have found that St. Joseph shippers as far as possible desire to have a complete service. In other words, they don't like motor carriers who pick certain types of freight and discourage other types of freight, such as refrigerated versus non-refrigerated. They become irritated when a carrier tells them they don't handle shipments of over 5,000 pounds, that they handle only shipments under 5,000 pounds in weight.

From my observation they definitely favor carriers that handle their truckload and also their l. t. l. business, because truckload business at the moment seems much more attractive; and it has been the subject of discussion on many occasions that the shippers there intend to favor those carriers that render a complete service rather than [fol. 1635] anything less than complete.

Q. Are there shippers in the St. Joseph area who are required to make shipments in excess of 5,000 pounds in this southern Iowa territory and particularly along Highway 6 in that territory?

A. I would say, with the possible exception of the electrical wholesaler, each of the shippers I have previously mentioned have occasion to make shipments over that weight as is sometimes obvious in the general wholesale business, but when they have a 5,000-pound shipment they dislike the necessity of searching for a carrier that would take that shipment in deference to the small carrier that had been handling their small shipments as a regular thing.

Q In other words, your shippers prefer in a particular territory, if the service is satisfactory, to limit the number of transportation agencies with which they deal?

A. Yes. The limitation of the number of companies becomes just as necessary at certain shipper's docks in St. Joseph as is true in Chicago, for instance. The amount of space available for loading is limited at many of the stores so it is only good business for them that their traffic managers keep the number of lines limited as much as possible. In fact, it becomes a necessity.

In the case of several industries, and the packing industry is an example of it, at least the two larger ones are industrial plants that were set up long before the advent [fol. 1636] of motor trucks, and the truck docks are more in the nature of fill-in operations, or something more in the nature of plant operations, it costs them much more. The docks aren't at the end of the production line as are the rail tracks. The many problems found in the larger cities is just as true as found in St. Joseph, and among them is the necessity for limiting the number of carriers.

Q. Now, you have a number of interline carriers serving St. Joseph, Missouri, that make connections with the Rock Island Motor Transit Company. I wish you would tell us a little bit about shipments from the St. Joseph manufacturers, jobbers and wholesalers, moving into this Iowa territory on and adjacent to Highway 6.

A. From my discussions with shippers recently I find, almost without exception, that they are using just one carrier from St. Joseph to Des Moines in connection with interline traffic for the Rock Island Motor Transit, and that is because of the service they get by that carrier.

Their experience has been that the Burlington Transportation Company can make early deliveries to the Rock Island Motor Transit on the following day after shipment from St. Joseph so the deliveries are made with a minimum of delay, and I find, almost without exception, they are using that carrier out of St. Joseph.

Q. So that shipments moving out of St. Joseph, Missouri, into this territory are interlined at Des Moines for points [fol. 1637] both east and west of Des Moines. What is the approximate total elapsed time in transit from St. Joseph, Missouri, to point of destination?

A. They tell me they are getting a next afternoon and second morning delivery in many cases.

Q. You referred to the meat packers located in St. Joseph, Missouri. Are there plants of all the large meat packing organizations located in St. Joseph, Missouri?

A. Two of them are. One is the plant of Armour & Company and the other is the plant of Swift & Company. In addition to that we have a local packer, the Dugdale Packing Company, which is a large and important packer

and specializes strictly in beef, and the Seitz Packing Company, which is a relatively small company, handles and processes all kinds of animals, that is the usual livestock animal.

Mr. Howland: I think you may cross examine.
Exam. Carpenter: Mr. Bradstreet.

Cross-examination.

By Mr. Bradstreet:

Q. Did you name the one carrier it is said does most of this interlining with the Rock Island Motor Transit at Des Moines? A. Yes; the Burlington Transportation Company.

Q. Mr. Emory, would you tell us what other common carrier transportation is available from St. Joseph to Des Moines?

A. Watson Brothers, Knaus, I believe Wagner is, Bos [fol. 1638] Transportation, I believe, serves Des Moines.

Q. Is that all?

A. That is all I think of at the moment.

Q. What are the rails between St. Joseph and Des Moines?

A. The Burlington and the Rock Island.

Q. Do you know who handles for your shipper clients the shipments that you mentioned of over 5,000 pounds at the present time?

A. No; I am not informed as to that.

Q. You haven't had any complaints about them not being able to get them out, have you?

A. Only to the extent they testified they would like to have the same carrier handle all of them.

Q. Answer the question.

A. I am sorry, sir. I intended to answer your question.

Q. Well, I asked you if you had had any complaints.

A. Well, you will have to qualify that question.

Mr. Bradshaw: Well, let's let it go. That is all.

Redirect-examination.

By Mr. Howland:

Q. You did receive, when you polled the members of your transportation organization, definite requests for the removal of the 5,000-pound limitation restriction, did you not?

A. Yes, sir.

By Mr. Bradshaw:

Q. How was that poll made?

[fol. 1639] A. By telephone calls. I made them personally.

Q. Why was that? You are recommending they agree to that?

A. No, I would not say so.

Mr. Bradshaw: That is all.

Exam. Carpenter: Thank you, sir. You are excused.

(Witness excused.)

Exam. Carpenter: We will adjourn until tomorrow morning at 9:30 a. m. at this same place.

(Whereupon, an adjournment was taken at 4:25 p. m., March 27, 1952, until 9:30 a. m., March 28, 1952.)

[fol. 1639a] TRANSCRIPT OF PROCEEDINGS OF MARCH 28, 1952

ADDITIONAL APPEARANCES:

William A. Landau, 1307 East Walnut Street, Des Moines 16, Iowa, appearing for Eldon Miller, Inc., Intervenor in opposition.

[fol. 1640] Exam. Carpenter: The hearing is convened.

Mr. Nolan: I will call Mr. Smith.

PAUL B. SMITH was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Please state your name, your address and occupation.

A. Paul B. Smith, Columbus Junction, Iowa. I am in the stationery manufacturing business.

Q. How long have you been so engaged, Mr. Smith?

A. About 20 years.

Q. Where is Columbus Junction located?

A. Columbus Junction is midway between Chicago and Kansas City on the Rock Island, and midway between St. Paul and St. Louis also on the Rock Island.

Q. Columbus Junction is a junction point on the Rock Island Railroad, in other words?

A. Yes, sir; likewise at the junction of the Cedar and Iowa Rivers.

Q. What highways are you located on?

A. No. 92 and 76.

Q. Do you understand the nature of this application is the establishment of motor carrier service on U. S. Highway No. 6 between Davenport and Omaha, Nebraska, also [fol. 1641] serving points adjacent to Highway 6 as well?

A. That is right.

Q. What use have you made of the Rock Island out of Columbus Junction for the past 12 or 13 years?

A. Well, we operate on a national scale; we don't do any local business; we ship all over the United States, not so much by freight, but most of our shipments go out by parcel post. However, we do receive a great amount of stock coming in. A lot of our shipments are from the east, from eastern mills as far as Massachusetts, and we use the Rock Island Motor almost exclusively from Chicago into Columbus Junction in connection with another carrier into Chicago.

Columbus Junction is in what might be called an orphan territory down there; we have practically only the one line of service that can give us any kind of service; although several years ago there was quite a bit of contest between the Burlington and the Rock Island for franchises

to come in there. The Rock Island came first and maintained the franchise rights on interstate shipments. A few years ago I went to Davenport and appeared for the Burlington to get interstate rights for another carrier; but since that time I think the Rock Island Motor Freight service has improved. It is my honest opinion they are probably serving our territory as good as any truck line could serve it.

Q. Is that a daily service?

A. That is right.

[fol. 1642] Q. That service comes out of Davenport or Cedar Rapids? Do you know?

A. Out of Davenport.

Q. As I understand it, you manufacture announcement cards and different kinds of stationery and things of that character. Is that correct?

A. We just have two lines, a line of school graduation invitations and a line of wedding invitations which we market through stores.

Q. What would be the frequency of inbound shipments?

A. Probably half a dozen shipments a week.

Q. Does the Rock Island Motor Transit Company operate into Columbus Junction daily?

A. Yes, they do.

Q. What is the size of the town of Columbus Junction?

A. Oh, about 1,200. There are two adjoining towns which makes a population center of about 2,000.

Q. What is the fact as to whether or not Columbus Junction has the usual retail service establishments as a town and community of that size has?

A. That is right.

Q. Do you have any other industry there?

A. We have a button factory and we have a canning factory.

Q. What would be the effect on your business in the event the Rock Island Motor Transit service would terminate or [fol. 1643] would be substantially curtailed in your community?

A. My feeling is that the business in a small town like ours is not enough for another line, unless it has a franchise like the Rock Island Motor Transit has to take care of the smaller towns along our line, that there isn't enough busi-

ness any particular freight line would go out of its way to do anything about it.

Q. As I understand it, the Rock Island Motor Transit Company is the only regular over-the-road carrier service that serves your community interstate. Is that correct?

A. That is right. The main point out of which any direct shipments are particularly important to us is Chicago.

Q. And your stock and your inbound shipments come from Chicago or out of eastern points through the Chicago gateway. Is that correct?

A. That is right.

Q. Has that service been reasonably satisfactory?

A. It has been satisfactory or I would not be there.

Q. Do you have any shipments in excess of 5,000 pounds coming in?

A. We have a good many skids of paper coming in and they run all the way from 1,500 pounds to perhaps 3,000 pounds.

Q. But you do not have any single shipments exceeding 5,000 pounds?

A. No. You mean as one piece?

Q. Yes; or as one shipment.

[fol. 1644] A. We can get a shipment of more than 5,000 pounds. We might get three or four skids of paper in a shipment.

Q. Well, have you had occasion to have three or four skids of paper come in together on one order?

A. Yes, we have.

Q. You would have occasional orders for shipments in excess of 5,000 pounds coming in?

A. Very occasional; once in a while.

Mr. Nolan: That is all. You may cross examine.

Exam. Carpenter: Cross examine.

Cross-examination.

By Mr. Bradshaw:

Q. Columbus Junction is located on the Rock Island Railroad line?

A. That is right; there are two lines. Incidentally, that is our reason for locating in Columbus Junction to build up

our business there because we have had ideal shipping facilities. As I said, we are midway between four cities, Chicago, Kansas City, St. Louis and St. Paul. We have had ideal postal business there.

Q. Most of your outbound shipments are by parcel post?

A. That is right.

Q. Do any of your inbound shipments come by rail?

A. Not any more.

Q. Did they at one time?

A. Yes, at one time we received shipments by rail more or less.

[fol. 1645] Q. How long ago?

A. Several years ago. Since that time we have been specifying motor freight.

Q. Well, you still get rail freight into your plant via the Rock Island Motor Transit, do you not?

A. Not as far as I know. It is a little hard to tell where we have the two coming into town and one freight depot; we don't check some of our shipments close enough to know whether they come by rail or motor. As I understand it, practically all freight into our town is by motor freight.

Q. Does your shippers designate the carrier, or do you do that?

A. We do.

Q. On the inbound?

A. Yes.

Q. I assume you usually designate Rock Island Motor Transit?

A. That is right. I have talked to one or two other shippers in the town. One of them said he specified shipments by rail, and the other one said he specifies by motor freight.

Q. Now, the shipper that specified rail freight, do you know whether or not he gets his rail fraight via the Rock Island Motor Transit?

A. I don't know.

Q. How far out of Davenport is Columbus Junction?

A. It is 40 miles.

Q. What type of truck does the Rock Island Motor [fol. 1646] Transit send in from Davenport?

A. Well, I don't know exactly. They have different types. Just what do you want to know?

Q. This truck, I take it, comes direct to your door?

A. That is right.

Q. What type of truck is that?

A. Well, it is a covered-up 3-ton truck, something like that.

Q. Not a semi?

A. No.

Q. Does he take or pick up any of your outgoing rail shipments?

A. We don't have any outgoing rail shipments; we have some outgoing motor freight.

Q. And he picks that up, I take it?

A. That is right.

Q. When you have this outgoing motor freight, who do you notify?

A. Well, we are located so we usually can catch the truck as it goes down the alley past our plant door. We can see it; and if we have anything to go any particular day we can telephone their office in Washington, Iowa.

Q. Who do you telephone there? The rail agent?

A. Yes. We are midway between Washington and Muscatine and we can telephone Washington or Muscatine.

Q. If you would telephone Muscatine, who would you talk to there?

A. Well, I have the address and phone number.

[fol. 1647] Q. Do you know who that representative is?

A. I am probably mistaken. I have never called Muscatine. I would call Washington; that is the office serving our town.

Q. You would call the Washington rail agent if you had a shipment going out?

A. Yes.

Q. Now, doesn't Western Transportation come into your town at some time?

A. Not to my knowledge. It has never been my knowledge that any other line had the interstate rights.

Q. Well, as I understand it, you have been pretty satisfied with the service of the Rock Island Motor Transit?

A. That is right.

Q. Have you had any occasion to look for other carriers?

A: No.

Q. You don't know whether Poole or Keeshin come into Columbus Junction?

A. Not that I know of. I don't believe they do. They come through there more or less on the highway.

Q. How do you get these shipments of over 5,000 pounds into your plant?

A. You mean out of the truck?

Q. Who brings them?

A. Rock Island Motor. They transport skids up to as high as 2,500 to 3,000 pounds in their trucks.

[fol. 1648] Q. As I understand it, you very seldom have a shipment over 5,000 pounds in weight. Is that correct?

A. That is right.

Q. But when you do, the Rock Island Motor Transit brings it in?

A. That is right.

Q. Do you know whether or not that shipment is broken down into smaller shipments, or is it all one shipment?

A. Well, that is hard to say. We don't have it happen often enough, to have shipments over 5,000 pounds.

Q. Have you had any in the last 6 months?

A. Yes, we have.

Q. How many?

A. Probably one.

Mr. Bradshaw: That is all.

Exam. Carpenter: Redirect.

Redirect-examination.

By Mr. Nolan:

Q. Mr. Smith, have you ever been solicited by any other truck line for your business?

A. Never have. That is conditional.

Q. I mean within the last 2 or 3 years?

A. The Burlington line was active about 3 or 4 years ago in trying to work up our business. They finally gave up because they have no facilities there, and their service is very poor, and any shipments that came in they usually had to get you out of bed at night to take care of them, or take them to Ottumwa.

[fol. 1649] Q. This service of the Rock Island Motor Transit Company is daily service, is it not?

A. That is right.

Q. When you call the agent at Washington do you know whether or not that is the rail agent or the motor agent?

A. I don't know.

Q. You just have the name and the telephone number at Washington to call and it may be the rail agent or the motor agent?

A. That is right. We catch their truck when they pass the door and when they come in we tell them when we will have a shipment.

Q. How far are you from Washington?

A. About 17 miles.

Q. In regard to those shipments in excess of 5,000 pounds, did you know up until about the 1st of August, 1951, the Rock Island Motor Transit could haul any size shipment and after that day there have been some limitations on their rights to haul such shipments?

A. You say that is true?

Q. Since August 1st there has been a certain restriction on the size shipment they can haul. Have you had any experience with that?

A. I don't believe so.

Q. Have you received a shipment in excess of 5,000 pounds that could have come in from an intrastate point? [fol. 1650] A. Yes.

Mr. Nolan: That is all.

Exam. Carpenter: Recross.

Recross examination.

By Mr. Bradshaw:

Q. Where did this one shipment that you had in the last six months come from that was over 5,000 pounds?

A. Well, it would have come from Springfield, Massachusetts, by way of Chicago.

Mr. Bradshaw: That is all.

Exam. Carpenter: Redirect.

Redirect Examination.

By Mr. Nolan:

Q. Do you know whether or not it could have been brought to Davenport by some other carrier and interlined with the Rock Island Motor Transit at Davenport and they brought it down to Columbus Junction?

A. It could have been.

Mr. Nolan: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Nolan: Mr. Dietz, please.

ERBEN DIETZ was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Will you give us your name, place of residence and occupation, please?

[fol. 1651] A. Erben Dietz, Walcott, Iowa; automobile dealer.

Q. Where is Walcott located?

A. About 15 miles west of Davenport on Highway 6.

Q. And on the Rock Island Railroad?

A. Right.

Q. But about a mile or so off of U. S. Highway No. 6?

A. That is right.

Q. What automobile agency does your company have?

A. Ford.

Q. Do you handle the Ford Tractor line?

A. No, I don't.

Q. I assume you have parts and auto supplies and things of that character?

A. That is correct.

Q. What is the size of Walcott?

A. About 500 population.

Q. It has the usual businesses and service establishments of a town that size in a good agricultural community?

A. That is right.

Q. What out-of-state shipments do you have coming into Walcott?

A. Motor parts and automobile parts from Chicago.

Q. What service do you use to get them?

A. Rock Island Motor truck.

Q. Have you been using that service for a number of years?

A. Yes.

[fol. 1652] Q. How long have you been in business?

A. Six years.

Q. How has the service of the Rock Island Motor Transit Company been from Chicago?

A. Very good.

Q. Do you know of any other motor carrier serving Walcott?

A. I have never been solicited.

Q. Have you had an occasional shipment brought in in the past six years by any other carriers?

A. I don't think of a single one.

Q. What would be the effect on your company's business in the event the Rock Island Motor Transit service was abandoned or materially reduced in regularity?

A. Well, it would slow up our parts, it would affect our parts business because it would delay shipments of parts coming from Chicago.

Q. With what frequency do you have shipments coming in from Chicago?

A. We have large shipments regularly twice a month, and we have smaller shipments several times a week.

Q. And those all come via the Rock Island Motor Transit?

A. That is right.

Q. Do you ever have occasion to have shipments in excess of 5,000 pounds?

A. No, sir.

[fol. 1653] Q. Your shipments are parts and supplies and things of that character?

A. Yes, sir.

Q. Do you know where you would go for transportation service if the Rock Island Motor Transit service should be terminated there?

A. I don't know.

Mr. Nolan: You may cross examine.

Exam. Carpenter: Cross examine.

Mr. Bradshaw: No questions.

Exam. Carpenter: You may be excused.

(Witness excused.)

Mr. Nolan: Mr. Riley Dietz, please.

Riley Dietz was swown and testified as follows:

Direct examination.

By Mr. Nolan:

Q. You are Mr. Riley Dietz?

A. That is right.

Q. And you live at Walcott, Iowa?

A. Yes, sir.

Q. You are a brother of Mr. Dietz who preceded you on the witness stand?

A. No, I am not.

Q. Some relation?

A. Well, about a third or fourth cousin.

[fol. 1654] Q. What business are you in?

A. I run an electrical shop; appliances.

Q. You are located in Walcott, Iowa?

A. Right in Walcott.

Q. How long have you been engaged in business there?

A. I would say about 6 to 7 years.

Q. What is the source of your merchandise from out-state points?

A. Well, mostly from Chicago; some from Freeport, but most of it is out of Chicago.

Q. You are referring to Freeport, Illinois?

A. That is right.

Q. What do you get from Freeport?

A. Water softeners.

Q. You handle all lines of electrical equipment?

A. I handle all appliances, gas stoves, gas appliances and so forth, as well as water softeners.

Q. That is where you have the butane or gas under compression to supply the stores?

A. That is right.

Q. You handle the gas tubes filled with gas or butane?

A. Yes, I do.

Q. You get your electrical supplies out of Freeport and your other merchandise out of Chicago?

A. All I get out of Freeport are the water softeners. From Chicago I get gas ranges and so forth; nothing big about it.

[fol. 1655] Q. Would you ever get a shipment in in excess of 5,000 pounds?

A. Never.

Q. I mean where you would get a lot shipment of several stoves or things of that character.

A. No. I don't have the facilities for storage.

Q. In other words, you depend on the overnight service from those points?

A. That is right.

Q. Have you been using the service of the Rock Island Motor Transit Company since you have been in business there?

A. That is right.

Q. What has been the quality of that service?

A. Very good. If you want me to enlarge on that, I think I can tell you more about it.

Q. Go ahead.

A. We run a small business. I have two men there out on jobs. I know these trucks come in there, but most of them go straight through without leaving anything there. I have a pickup truck; and last week I had a shipment coming in and they said, "If you want to pick it up we will put it on the truck."

Q. With what frequency would you say you have shipments coming into your place of business from out-state points?

A. Not too frequent; maybe two shipments a month for

our business; sometimes it is oftener; it depends on the amount of business we do. At times our business will run crowded and the next time it will slack off.

[fol. 1656] Q. Do you ever observe the service of many other truck lines through Walcott?

A. No.

Q. Have you been solicited by any other carrier than the Rock Island Motor Transit Company?

A. No, sir.

Q. If the service of the Rock Island Motor Transit Company would be abandoned out of Chicago, do you know where you would place that business?

A. No, I do not.

Mr. Nolan: You may examine.

Exam. Carpenter: Cross examine.

Mr. Bradshaw: No cross examination.

Exam. Carpenter: That is all. You are excused.

(Witness excused.)

Mr. Nolan: I will call Mr. Lovewell to the stand.

CLARENCE LOVEWELL was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Your name is Clarence Lovewell?

A. Yes, sir.

Q. And you live at Walcott, Iowa?

A. Yes, sir.

Q. What is your business, Mr. Lovewell?

[fol. 1657] A. Plumbing and heating appliances and pumps, everything in that line for the farmers.

Q. How long have you been in business there?

A. Well, for myself I imagine something like 7 or 8 years, but I ran that business for about 10 years for another fellow before that.

Q. Then you have been in business there, directly or indirectly, since the Rock Island Motor Transit Company have been operating through that territory?

A. Ever since they have been operating through there.

Q. You were operating the business there when the old Otto Truck Line done business there?

A. That is right.

Q. Then the Rock Island Motor Transit Company was the successor to Otto?

A. That is right.

Q. What is the source of your inbound shipments from out-of-state points?

A. A good many, Rock Island, Moline, St. Louis, Chicago, just various points where I have to get my material.

Q. How frequently do you have shipments coming in to your place of business from those out-of-state points?

A. It is pretty frequent.

Q. Would it be once or twice a week?

A. Yes.

[fol. 1658] Q. Once or twice a day?

A. No; usually once a day. Sometimes shipments come in there in the evening from Davenport.

Q. You say you have had as high as two different shipments in one day via the Rock Island Motor Transit?

A. That is right.

Q. Do you have occasion to have shipments come in from out-of-state points which are in excess of 5,000 pounds in weight?

A. No.

Q. In other words, there might be several articles in a package shipment, but altogether they would not weigh in excess of 5,000 pounds?

A. That is right. The largest shipment I have would be the steam boilers for the average home, and they don't run that weight.

Q. Do you have any other motor truck service at Walcott than the Rock Island Motor Transit Company?

A. Not that I know of.

Q. In the event the Rock Island Motor Transit operations should cease or be curtailed, where would you go to place that business?

A. I don't know.

Q. Would your business be adversely affected if that service should be terminated or curtailed?

A. Some, yes. I like their service, you can depend on it pretty well.

[fol. 1659] Q. Would you say the service is satisfactory from the standpoint of the time element and the handling of claims for loss and damage?

A. It is.

Mr. Nolan: That is all.

Exam. Carpenter: Mr. Bradshaw you may cross examine.

Cross examination.

By Mr. Bradshaw:

Q. As I understand it, Mr. Lovewell, you have used the services of the Rock Island Motor Transit for the past 6 years and you are satisfied with the service.

A. That is right.

Q. And you haven't had any occasion to look around for any other type of service. Is that it?

A. No, I have never had any occasion to.

Mr. Bradshaw: That is all.

Exam. Carpenter: Any redirect?

Redirect examination.

By Mr. Nolan:

Q. Do any other motor carriers serve the town of Walcott, or have you observed any other trucks in there?

A. No, I have never observed any. Once in a while, and I don't know whether it is a common carrier or not, I see a semi in town occasionally.

Q. It is not one you would see in there regularly unloading merchandise to the different merchants?

[fol. 1660] A. No.

Q. Isn't it true that in a town like Walcott everybody knows what is going on around town?

A. I believe so. I know I can't do anything without it being known.

Mr. Nolan: That is all.

Mr. Bradshaw: Nothing further.

Exam. Carpenter: That is all. You are excused.

(Witness excused.)

Mr. Howland: Is there anyone else here from Walcott, Iowa?

Will you please come forward and be sworn?

KENNETH HERBERT DIETZ was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. State your name, please.

A. Kenneth Herbert Dietz.

Q. Your home is in Walcott, Iowa?

A. Yes, sir.

Q. What business are you engaged in?

A. Banking.

Q. How long have you been located at Walcott in that business?

A. Since March, 1946.

Q. Do you have occasion, in connection with your business, to use the services of the Rock Island Motor Transit Company at Walcott?

[fol. 1661] A. Yes, sir.

Q. In what respect? What is the occasion for you having shipments either in or out of your place of business?

A. It would be inbound, bank supply shipments.

Q. With what frequency do you get shipments from outside of the State of Iowa?

A. Not too frequent.

Q. Most of your shipments come from points within the State of Iowa?

A. Locally, yes.

Q. So far as you are advised, is there any other truck line that renders any service of any kind to the town of Walcott than the Rock Island Motor Transit Company?

A. None whatsoever.

Q. On interstate shipments that you do have occasion

to receive from points outside of the State of Iowa, would there be some of those shipments that come from points like Chicago or other interstate points of origin?

A. That is right.

Q. About how frequent would such shipments occur?

A. Possibly once a month.

Q. Mr. Dietz, as far as you know is there any other carrier that is presently operating at Walcott that would render the service to that town that the Rock Island Motor Transit Company has been rendering to your community?

[fol. 1662] A. No.

Mr. Howland: I think you can cross examine.

Exam. Carpenter: Cross examine.

Mr. Bradshaw: No cross.

Exam. Carpenter: You may be excused.

(Witness excused.)

Mr. Howland: Mr. Sweany, please.

R. L. SWEANY was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. State your name, please.

A. R. L. Sweany.

Q. Where do you live, Mr. Sweany?

A. At Muscatine, Iowa.

Q. Your business is what?

A. General Secretary of the Chamber of Commerce.

Q. Muscatine, Iowa, is located on the westerly and northerly bank of the Mississippi River about how far from Davenport, Iowa?

A. Just about 30 miles south and west of Davenport.

Q. What is the population of Muscatine?

A. 20,000.

Q. What type of community is it with respect to whether there are any manufacturing and industrial projects there?

A. We have got a little industry; of course, we still con-

sider ourselves an agricultural community; but, as you [fol. 1663] might have heard, we are the button center of the world, we have the Celon company there, a manufacturer of plastics.

Q. And you have various types of industries there too, do you not?

A. Yes, grain processing and grain alcohol manufacturing.

Q. You have the Carver Pump Company there?

A. Yes.

Q. You have the Kent Feeds there?

A. Right; and the McKee Feed & Grain Company is there. We have the H. J. Heinz Company, Roach & Musser Sash and Door Company, and Huttig Sash and Door Company.

Q. Roach & Musser and Huttig are both large industries, are they not?

A. Yes, they are.

Q. Would you know about the number of employees each of those plants would approximate?

A. I would venture a guess of between four and five hundred employees each. That is the way we have them listed there.

Q. How large a plant does Celon operate with respect to personnel?

A. At the present time they are employing about 250 people; but they are in the process of moving their entire operation to Muscatine over from Madison, Wisconsin, so it will grow as time goes on.

Q. Now, the Heinz plant is a seasonal plant, is it not?

A. That is right.

[fol. 1664] Q. They have a large warehouse there, do they not?

A. Yes.

Q. What types of Heinz products do they manufacture?

A. They manufacture catsup, bean soup, all the different pickle products, they manufacture a tomato sause and chili sauce.

Q. And tomato soup?

A. Yes, they make tomato soup and also oven-baked beans.

Q. Now, with respect to the Carver Pump Company, what is their particular line of industry?

A. Their major line is industrial pumps. They make all types of water pumps. They design a pump to pump anything.

Q. That company is about how large a plant with respect to the number of employees?

A. I would say 250 to 300 personnel, quite a large operation. They do a world-wide business. They design pumps that might be sold in Egypt next week.

Q. You also have wholesale grocer concerns in Muscatine, do you not?

A. That is right.

Q. And you also have some— What is the fact as to whether Muscatine is also a vegetable-producing area?

A. Yes; we have what we call the Muscatine Island area, which is the sand flats south of Muscatine, where everything in the truck-gardening classification will be raised, everything from cabbage to carrots and so on down the line are raised.

[fol. 1665] Q. You say you are the General Secretary of the Chamber of Commerce of Muscatine?

A. That is right.

Q. About how many concerns make up the membership of the Chamber?

A. I would say firm memberships are probably around 300.

Q. I take it, in addition to these manufacturing and industrial concerns we have been talking about, you have the usual retail establishments and service establishments of various types?

A. We like to consider them a little bit better than usual.

Q. Well, you have such establishments?

A. That is right.

Q. Now, what transportation service is available by way of railroad facilities at Muscatine?

A. We have both Rock Island and Milwaukee, a joint agreement, I believe, using the same tracks through Muscatine.

Q. In fact, they use the same facilities as far as freight house and passenger station are concerned, do they not?

A. That is right. Their agent, I believe, is a joint agent.

Q. What do you have in the way of motor carrier facilities serving Muscatine?

A. Well, our major motor carrier in Muscatine, of course, is the Jim Poole Transfer. They serve daily the Minneapolis area and also into Chicago.

Q. Poole is a Chicago and Twin Cities operator from Muscatine?

A. That is right.

[fol. 1666] Q. Does Poole maintain a daily service from Chicago to Muscatine on less-than-truckload shipments?

A. It is my understanding that he does; now I may be wrong.

Q. Does Poole maintain any western service? That is to western points?

A. Not at all. He possibly does on a contract basis.

Q. But not on a regular route service?

A. No.

Q. And on shipments moving to Omaha or points west of Omaha or into that area, the only service available on a regular-route service would be the Rock Island Motor Transit Company?

A. That is right.

Q. What about the service to Kansas City and points south and west?

A. Well, again that would all be Rock Island Motor Transit, yes.

Q. Does the Burlington Transportation Company maintain any interstate service serving Muscatine?

A. It is my understanding that Burlington does come into Muscatine and will pick up and deliver. They have no terminal there, to my knowledge, nor do they do much business there at all.

Q. Now, the Poole Transfer has a terminal at Muscatine?

A. Yes, he does.

Q. And the Rock Island Motor Transit maintains a terminal at Muscatine?

A. That is right.

[fol. 1667] Q. Are you familiar with the character and the quality of the service which has been furnished you from out-of-state points by the Rock Island Motor Transit Company?

A. If I may ramble just a minute here? I came down here Tuesday; I was in a hearing of the Iowa Highway Commission at Ames when I heard about the hearing here and I was asked to come down by some of our users in Muscatine; Iowa.

Immediately upon my return to Muscatine I began to call some of these people I know, who used the Rock Island Motor Transit Company, to find out what effect the losing of such service would be on their business. I tried, in contacting them, to contact both our retail establishments and our industrial people, and I found, just generally speaking, it would be a catastrophe, as one man put it, if they should lose that service.

Q. Do you have a memorandum of the people you contacted with reference to the Rock Island Motor Transit service there?

A. Yes, I have. I wrote this all down because I wanted to be sure I would have the information you wanted when I got here.

Mr. Bradshaw: Just a moment. Do you want to limit this to questions and answers?

Mr. Howland: All right.

By Mr. Howland:

Q. I will ask you to give the names of some of the retailers and wholesalers and manufacturers with whom this matter was discussed by you as Secretary of the Chamber of Commerce.

[fol. 1668] A. Well, as far as retailers are concerned I talked with the Batterson Store.

Q. What is their line?

A. That is a department store. It is our largest department store there. I visited with a man in the Goodyear Service Store. In the wholesale grocer line I talked with Mull & Son, and with Carl Paetz, a wholesale grocer. As far as the manufacturers are concerned I talked with Barry Pulley Company, the Northern Gravel Company, the Piper Products Company, the Celon Company, Roach & Musser Company, and I talked with Brewer & Son, which is a furnace and plumbing company.

Q. On shipments from points to the south, southeast or southwest, does Poole handle any of those shipments except the ones that come through Chicago?

A. I believe not.

Q. With respect to these people who you contacted and who expressed interest in the continuation of the Rock Island Motor Transit service, do these concerns have inbound shipments into Muscatine from the west, south or southwest?

Mr. Bradshaw: Just a minute. I object to that on the ground it is purely hearsay. This information, if he did obtain it, was restricted to telephone conversations, it is not shown who the conversations were with, these people would be available as witnesses to testify in their own behalf, it is strictly a hearsay proposition, and irrelevant.
[fol. 1669] Exam. Carpenter: The objection is overruled.

By Mr. Howland:

Q. You may answer.

The Witness: Will you repeat that question?

(Question read.)

A. Yes, a great many of them do.

By Mr. Howland:

Q. Well, the Huttig Sash and Door Company has its headquarters, I believe, at Kansas City. Is there some movement of any kind between Kansas City and Muscatine in their case? Do you know?

A. I can't answer that question; I do not know.

Q. All right. Where does Celon get its material?

A. Most of it comes down from Madison, Wisconson; that is my understanding. I talked with them and they said they did use the Rock Island Motor Transit sometimes for materials coming in, but that a great deal of it comes in by rail. They have a spur right down at the plant.

Q. And their outbound shipments from Muscatine are handled in smaller quantities?

A. That is right.

Q. Are they interested in shipping into the territory to the west through the Omaha gateway?

A. Some of that is done, yes; they said about 5 percent of their business.

Q. How about the pump and these other concerns?

A. The Crawford Pump Company said between 1 and 2 percent is actually carried by motor transport, but, he said, [fol. 1670] if they should lose the service of the Rock Island Motor Transit it certainly would be detrimental to their business, because they do depend on it. May I offer something here?

Q. Do you have information from some other shipper?

Mr. Bradshaw: Just a minute. I object to voluntary statements on the part of the witness. This should be limited to questions and answers.

By Mr. Howland:

Q. I will ask you, Mr. Sweany, to give such additional information as is within your knowledge.

Mr. Bradshaw: I object to that type of questioning.

Exam. Carpenter: Objection sustained.

By Mr. Howland:

Q. Have you had any communications from any shippers or receivers of freight by motor carrier with respect to the continuation of this Rock Island Motor Transit service?

A. Yes, I have.

Q. And who were those from?

A. One was the Roy Brewer Furnace Company of Muscatine who depends 100 percent upon the Rock Island Motor Transit for its inbound——

Mr. Bradshaw: Just a moment.

By Mr. Howland:

Q. Where does Brewer get his supplies and merchandise from?

A. From Des Moines.

Q. That is intrastate?

A. It is all intrastate business.

[fol. 1671] Q. As far as he is concerned?

A. That is right.

Q. This hearing is devoted, of course, to the interstate question, which is separate and apart from——

Mr. Howland: I think that is all. You may cross examine.

Exam. Carpenter: You may cross examine, Mr. Bradshaw.

Cross examination.

By Mr. Bradshaw:

Q. The Crawford Pump Company, you say, ships via common carrier between 1 and 2 percent?

A. That is right.

Q. And all of these common carrier shipments are not just the ones restricted to this application, are they?

A. I don't know that I understand you on that. That is strictly Rock Island Motor Transit.

Q. That is both interstate and intrastate?

A. Yes, that is right.

Q. In other words, we are only interested here in the interstate portion. You understand that?

A. Yes.

Q. Is the same thing true with the 5 percent that you say Celon ships to the west?

A. That would be interstate.

Q. By west what do you mean?

A. Well, west, probably Omaha and Kansas City; that was the basis on which I was talking to him.

[fol. 1672] Q. What other carriers do they use to Kansas City?

A. I don't know.

Q. Do you know whether there is other transportation available to Kansas City other than the Rock Island Motor Transit?

A. Not to my knowledge via common motor carrier.

Q. Have you had any occasion to investigate?

A. Yes; I did everything I could to date to investigate.

Q. How about rail?

A. To Kansas City?

Q. Yes.

A. Well, these people I talked to on l. c. l. shipments——

Q. No; I am not talking about your clients now. I am talking about you as a traffic man, what information you have that is available with respect to rail service between Muscatine and Kansas City.

A. None direct from Muscatine, to my knowledge.

By Mr. Howland:

Q. Well, you mean on l. c. l. shipments.

A. No; I mean on just any of it. You are just speaking about service. Is that it?

By Mr. Bradshaw:

Q. My question covered the whole thing, but I will ask you to answer Mr. Howland's question, if you wish.

A. Not to my knowledge.

Q. In other words, you don't know.

A. That is right.

Q. Are there any other motor common carrier terminals [fol. 1673] in Muscatine other than the Poole Transfer and the Rock Island Motor Transit?

A. No, there are not. As I understand it, the other services I couldn't even find any one representing them; but there is a service station somewhere in town where stuff can be left to be picked up, where small shipments can be left.

Q. Does the Green Transfer come to Muscatine?

A. Yes.

Q. Do they stop there?

A. I couldn't find anyone there who uses the service.

Q. Do you know whether they have authority in there?

A. Yes, they have authority in there because they do come through.

Q. Are you familiar with which direction they come from to Muscatine?

A. No, I am not.

Q. How about Hedrick?

A. I know their operation comes through Muscatine.

Q. Do you know which direction they come from to Muscatine?

A. No, I don't.

Q. How about Keeshin? Do you know whether they come into Muscatine?

A. I don't believe they do.

Q. Does Knaus come into Muscatine?

A. No, they don't.

[fol. 1674] Q. Now, Western serves Muscatine from Chicago. Is that right?

A. That is right. They come through.

Q. I believe you have already testified that Muscatine is served by the Milwaukee and Rock Island Railroads.

A. That is right.

Q. Now, is the Rock Island Motor Transit freight station or terminal located in the railroad station occupied by the Milwaukee and Rock Island Railroads?

A. The have a freight house.

Q. Is it in connection or in conjunction with the freight depot of the Rock Island Railroad?

A. I believe so. I am not sure.

Q. You think they are probably housed in the same building?

A. I think they have a joint operation on that.

Q. Do you know whether or not the Rock Island rail freight agent is the same person as the Rock Island Motor Transit freight agent?

A. No; they are two different people.

Q. But they occupy the same space?

A. I believe they are in the same offices.

Q. Does the Rock Island Motor Transit have a pickup and delivery service in Muscatine?

A. Oh, yes.

Q. And do you know whether or not that pickup and delivery service also picks up and delivers rail freight?

[fol. 1675] A. No, I don't know that they do. I would imagine so, but I can't say— I would rather say I don't know.

Mr. Bradshaw: I believe that is all.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Howland:

Q. Now, with respect to the rail service, both the Rock Island and the Milwaukee operate to Kansas City from Muscatine, do they not?

A. On the trackage coming through Muscatine?

Q. Yes.

A. Well, I am not going to answer one way or the other. I haven't used the service and haven't been there long enough to know.

Mr. Howland: That is all. Thank you.

Mr. Nolan: I have some questions.

Exam. Carpenter: Off the record.

(Discussion off the record.)

Exam. Carpenter: Back on the record.

By Mr. Nolan:

Q. Mr. Sweany, you were asked about the service of the Hedrick Motor Freight Line. That is a north and south operation between Burlington and Muscatine, is it not?

A. I am not sure of the directions at all. The operation is through the town.

Q. In regard to the Rock Island Motor Transit Company, what is the fact as to whether or not the Rock Island [fol. 1676] Motor Transit Company is the only company that provides a local service in intrastate service between Muscatine and Davenport? That is a fact, isn't it, that that is the only company that offers that service?

A. Yes.

Q. What is the fact whether or not you made any survey or have given any consideration to the matter of the necessity in an industrial town such as Muscatine, where you have so many small companies, having a carrier serving that community which has not only an agent there but whose rate information is available and who has facilities for tracing shipments and for making claims for lost and damaged items?

A. Those are vital services and are available there.

Q. You have a number of small industries and, then, you have some sizable industries. Is it true that many of the small industries do not have a traffic department?

A. That is true.

Q. And they do depend upon the carriers, do they not, for rates and classifications and routings?

A. Yes.

Q. You say the Rock Island Motor Transit and the Poole Transfer are the only two concerns which have offices there and have rate and classification and routing information?

A. That is right.

Q. And that Poole operates from Chicago via Muscatine [fol. 1677] to the Twin Cities and does not give any westbound or southwest service?

A. That is correct.

Q. What is the fact whether or not the Rock Island Motor Transit would be the only agency which would have rate information, routing information and information of that character for your industries, which do not have traffic departments, on shipments moving through the Omaha gateway or the Kansas City gateway?

A. That is right. It is very important.

Q. You use the Rock Island Motor Transit agency for that information, do you not?

A. Yes, sir.

Q. And do you do that because you have inquiries from some of your members?

A. That is right. That is done in answer to those inquiries we receive.

Q. And if it were not for the Rock Island Motor Transit Company giving service on shipments destined to the west and southwest, then you would have to seek that information from Davenport or somewhere else?

A. We have contacted Davenport as well as Mr. Poole.

Q. Is Mr. Massey still there?

A. I talked directly with Jim Poole who is a freight man.

Q. But for routing and interline information and things of that nature to the west and southwest you have called the Rock Island Motor Transit for that information?

[fol. 1678] A. That is right.

Q. Where there are many shipments going out from Muscatine is it necessary to have the facilities for tracing shipments as well as having facilities for making claims for lost and damaged items?

A. Yes. It has been very important.

Q. In event of the loss of the transportation service of the Rock Island Motor Transit, if that condition should be imposed upon both intrastate and interstate service, what would be the effect on industrial business in Muscatine? That is taking into account the loss of rate, routing, classification and claim information attendant upon such service.

A. Good service or the lack of it can either make or break a community. If that service were folded up and nothing else to take its place it would practically fold up the town.

Mr. Nolan: That is all.

Mr. Bradshaw: That is all.

Exam. Carpenter: That is all. You are excused.

(Witness excused.)

Mr. Howland: Mr. Gould, please.

JAMES A. GOULD was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Your name is James A. Gould?

[fol. 1679] A. That is right.

Q. You live at Muscatine?

A. I do.

Q. What is your business?

A. I am a grain buyer, manager of the grain department for the McKee Feed and Grain Company and the Hawkeye Soy Products Company, and I also look after the traffic work of both companies.

Q. Those are affiliated companies?

A. They are.

Q. As far as ownership and managers are concerned?

A. That is right.

Q. You have lived in Muscatine for how long?

A. Ten years.

Q. Are you familiar in a general way with the business and industries carried on there as to transportation available?

A. I am to a certain extent.

Q. What is the business of these two concerns for which you have been acting in connection with traffic matters?

A. Well, the McKee Feed and Grain Company is engaged in the buying and selling of grain and manufacturing livestock feeds, and we also are engaged in grain shipping both by rail and barge.

Our Hawkeye Soy Products Company grinds and crushes soy beans and makes soy bean oil and soy bean meal therefrom. The soy bean meal is used, of course, in livestock feeds.

Q. Does the McKee Grain and Feed Company process [fol. 1680] and distribute livestock feeds?

A. Yes.

Q. And that is one of the two concerns engaged in the feed business on a large scale at Muscatine?

A. In Muscatine, yes, sir.

Q. You have a competitor there?

A. We have.

Q. Mr. Kent of the Mississippi Valley Grain Company?

A. That is right.

Q. Now, Mr. Gould, do your companies for which you act have any occasion to make shipments of either an inbound or outbound character by motor freight service?

A. Yes, occasionally. I would say once or twice a week.

Q. What, generally, is the type and character of those shipments?

A. Well, I would say we receive shipments of machinery from outside of the state.

Q. In your plants you have a more or less continuous movement of parts and equipment and machinery?

A. For processing the soy bean meal and feeds.

Q. From what points do you have those shipments coming in?

A. They are from Michigan, Ohio, Kansas, St. Louis; I would say as a rule from the east and occasionally from the west and at times from Minneapolis and St. Paul.

Q. What service have you used in connection with the [fol. 1681] transportation of those shipments?

A. Both the Rock Island Motor and Jim Poole.

Q. What has been the character, generally speaking, of the service that you have received from the Rock Island Motor Transit Company?

A. Good.

Q. You heard the testimony of Mr. Sweany, did you not?

A. Yes, sir.

Q. About Poole's operations?

A. Yes, sir.

Q. Poole has no operations through the Omaha territory nor through Kansas City, does he?

A. No; I don't think he has any operating rights there.

Q. His operations are confined, are they not, through Chicago and from the Twin Cities into Muscatine?

A. That is right.

Q. Would a termination of the interstate service of the Rock Island Motor Transit Company or the substantial reduction in the quantity of it affect the business of the companies that you represent at Muscatine?

A. Well, it would hurt it.

Q. Would you explain why this is so?

A. Well, of course, for instance, on our Kansas shipments I don't know how we would get the stuff in there. As far as Chicago and east is concerned, they would naturally have to go to Poole, and Poole at times has [fol. 1682] not been giving us too good a service. Well, I don't know what we would do with the bulk of our shipments; so coming from Chicago and east I don't know what we would do.

Q. What has been your observation with respect to Poole's service, particularly on the smaller shipments, on the l. t. l. shipments? Has it been somewhat limited in volume because of a limited amount of equipment?

A. I think so.

Q. I take it, then, that it would be your judgment, as a shipper and receiver of freight, shipments would require

a continuation of the Rock Island Motor Transit service?

A. It most certainly is. I think it would result in a tremendous loss of business to the people of our town if that service should be curtailed or abandoned.

Q. Mr. Gould, are you a member of the Chamber of Commerce of Muscatine?

A. I am a member and on the Board of Directors.

Q. Have the membership of the Directors of the Chamber of Commerce contacted some of the other industries that operate in Muscatine with respect to this subject?

A. I have.

Q. Can you tell us some of those that you have contacted about it?

Mr. Bradshaw: Just a moment. I object to this on the [fol. 1683] ground it is purely hearsay.

Exam. Carpenter: The objection is overruled.

A. I have contacted the Hedrick Manufacturing Company and they told me they were using motor truck more than they formerly did. They formerly put out nothing but straight carloads, but apparently they are frequently doing some l. c. l. and l. t. l. shipping.

I contacted the Northern Gravel Company which are heavy processors of gravel for concrete for waterworks and certain chemical companies.

Q. Filter sands?

A. Filter sands; and they are very much surprised at the volume they do. But they have a large volume of l. t. l. shipments of filter sands or cleaning sands to various chemical industries.

Q. Do you know, as a matter of fact, in what territory the Northern Gravel Company sells and distributes those products and whether they do any shipping in a westerly direction?

A. They go to the west, and I know they go as far east as Cincinnati. I also contacted our Post Office agent. I happen to live at a hotel right by the railroad station and I see Rock Island Motor Transit trucks bring in a good volume of mail every morning early, and I find that same truck returns east to Rock Island about 11 o'clock every day. The curtailing of that service would be a hardship on

the merchants of our town if the Rock Island Motor Transit suspended that mail service.

[fol. 1684] Mr. Howland: I think you may cross examine.

Exam. Carpenter: Cross examine.

Mr. Bradshaw: No cross examination.

Exam. Carpenter: You will be excused.

(Witness excused.)

Exam. Carpenter: We will take a recess at this time.

(Recess.)

Exam. Carpenter: You may proceed.

Mr. Nolan: Mr. Smith, please.

THOMAS H. SMITH was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Please state your name, your address and your occupation, please.

A. Thomas H. Smith, Clinton, Iowa; Traffic Manager, Clinton Foods, Inc.

Q. How long have you been so engaged?

A. For 29 years.

Q. What is the general nature and character of your company?

A. We are known as wet processors of corn. In other words, the corn is steeped and it is manufactured into corn sugar, corn starch, dextrone and by-products of animal feed.

Q. Does your company have national distribution?

A. We do.

Q. What other allied companies are connected with [fol. 1685] Clinton Foods, Inc.?

A. We are known as Clinton Foods, Inc., the juice industry, which I don't really think enters into this question, but I will mention it. It includes the juice industries throughout Florida and the Snow Crop marketeers which

produce products at point of production all over the United States; they are frozen under this Snow Crop label.

Q. You speak of the juice industry. I assume you refer to citrus and grape juices?

A. That is right.

Q. Are any of those juices shipped to Clinton in quantity and recanned there?

A. That is right.

Q. Then you distribute them out of Clinton?

A. That is right.

Q. Are these corn products distributed out of Clinton?

A. They are.

Q. So far as this case is concerned, you understand this involves the operations of the Rock Island Motor Transit Company out of Clinton for such points as Omaha, Kansas City, Lincoln, Nebraska, the west and southwest territories?

A. That is right.

Q. And also from Clinton to Chicago and other points east?

A. Yes, sir.

Q. You have appeared at these hearings many times, [fol. 1686] Mr. Smith, in the past?

A. I have.

Q. Just state for the record the interest of your company and allied industries in these proceedings.

A. Well, as far as the Rock Island Motor Transit is concerned, I don't believe there is a day we don't have less than six l. t. l. lots going over the route in question for points beyond Kansas City and Omaha and into Arkansas. In addition to those products we also refine from corn *corn* and soy bean oil, and we produce cooking and salad oil in 5-gallon tins and in 55-gallon drum lots.

We also manufacture from corn sugar what is known as electic acid which is used in ice cream factories and drugstores of which we move at least three shipments a week to Houston, Texas, and which is handled by the Rock Island Motor Transit through Kansas City.

In addition to that we also have steeped water, which is the water left after the corn has been softened, and that moves to various points, even as far as Berkeley;

California, and San Francisco, in not too many truckloads but in l. t. l., trucklots and l. c. l. rail.

We have a continual flow of pumps and pump parts from San Francisco, which has moved I would say for 5 years and which has been handled by the motor carrier known as P. I. E. to Kansas City and the Rock Island Motor Transport beyond.

[fol. 1687] We also ship seed in lots of 3,000 to 5,000 pounds to points like Kansas City, Omaha and Lincoln, which is handled direct by the Rock Island Motor Transit. In return there is a continual flow of empty drums from points in the south and southwest daily which also comes in via the Rock Island Motor Transit Company.

Q. What are these High Sea products?

A. That is print jade which goes out 100 percent by truck. It is a concentrate shipped in from Florida in refrigerator cars.

Q. In bulk?

A. In 55-gallon drums, and that is thrown into vats with sugar and stuff added and is made into candy for kids.

Q. Is that canned in commercial-sized cans?

A. In 12 ounce and 46 ounce cans.

Q. Now, your company has been using the Rock Island Motor Transit Company, has it not, since it first started to serve Clinton?

A. Yes, sir, and its predecessor.

Q. Who was its predecessor?

A. The White Truck Line.

Q. What has been the character of the service of the Rock Island Motor Transit Company as being satisfactory or otherwise?

A. Good.

Q. And you say you have a regular flow out of Clinton by the Rock Island Motor Transit Company to the territory it serves in interstate commerce?

A. That is right.

[fol. 1688] Q. And you also use the Rock Island Motor Transit Company for shipments to Iowa interstate points—I should have said to Iowa intrastate points?

A. Extensively.

Q. Would you tell us the population and general industrial and business character of Clinton, Iowa?

A. It has a population of about 32,000; it has many varied industries, DuPont getting a new plant there; and there is Dairypac, Curtis, and many other small manufacturing plants.

Q. Doesn't Pillsbury have a large manufacturing plant there?

A. That is right.

Q. You have barge service from both the Twin Cities and the Gulf, do you not?

A. They don't use barge service yet.

Q. Do you have a dock?

A. Yes.

Q. What would be the effect on your company's business if the Rock Island Motor Transit Company service was abandoned or substantially curtailed in the regularity of its service?

A. Well, it would be very destructive to us and many of our customers.

Q. Do you know of any other transportation facilities that could give you the same quality of service the Rock Island Motor Transit renders to the south and southwest?

A. I presume there are others.

[fol. 1689] Q. Have you been offered equivalent service to that of the Rock Island Motor Transit through the Kansas City gateway to the west and southwest?

A. I have.

Q. Was that service as comparable as that of the Rock Island Motor Transit Company?

A. There was an additional hauler interlined with the Rock Island Motor Transit Company.

Q. But I am asking, from an all-over service, from your experience you have had, has any other company offered you the same direct service that the Rock Island Motor Transit has?

A. There are a few, but they are not dependable.

Q. From the standpoint of rates, routings and claims, has the Rock Island Motor Transit service been satisfactory?

A. It has.

Q. Do you have any shipments in excess of 5,000 pounds?

A. We do.

Q. Are you familiar with the fact the Rock Island Motor Transit is presently restricted to 5,000-pound shipments?

A. No, I am not.

Q. That is on shipments out of the state.

A. No, I am not.

Q. That hasn't been called to your attention?

A. No.

Q. If such a restriction were to continue on, what effect [fol. 1690] would it have on your business?

A. If we couldn't find anyone else to take its place it would, no doubt, cripple our business. We have a new juice about a year and a half old and business in its sale and distribution is growing.

Q. I believe you stated you have a regular flow of traffic out of your plant at Clinton to those points in the west and southwest moving by the Rock Island Motor Transit Company.

A. That is right.

Mr. Nolan: You may cross examine.

Exam. Carpenter: Cross examine.

Cross examination.

By Mr. Bradshaw:

Q. Mr. Smith, would you give the names of those other carriers you use to the west and southwest out of Clinton?

A. Oh, I have used Dorn in connection with Watson, Burlington Transportation in connection with any line between Clinton and the Tri-Cities, Western Transportation, Carstensen through Cedar Rapids and down. We have had as high as 800 trucks in and out of our plant in a month. I keep a very close check on that, not that we mistrust them.

Q. The Rock Island Motor Transit, in other words, does not now handle all of your west-bound traffic, does it?

A. No, sir.

Q. Who handles your shipments of over 5,000 pounds to the west?

[fol.1691] A. Well, Southwest comes in there and they have the rights, and then there is Dorn in connection with other lines through St. Louis. We just had one the other day to Memphis that went Dorn strictly. We have a lot of contract trucks in there hauling for our customers. Poole is in there in contract. There is Moore and Green.

Q. I believe you stated you were not aware there was such a restriction on interstate commerce on the Rock Island Motor Transit as a 5,000-pound maximum limitation.

A. I didn't pay any attention to it.

Q. So it has not bothered you to date?

A. No. I would hate to offer them over 5,000 pounds, but perhaps I would learn something.

Q. Of course, you are aware, are you not, there is plenty of transportation between Clinton and Chicago?

A. Plenty.

Q. And you have no problem between the Twin Cities and Clinton?

A. No.

Q. Do you use Keeshin?

A. Between Clinton and the Twin Cities?

Q. Yes.

A. No. We use the H. & W. mostly; we have used the Rock Island Motor Transit.

Q. Do you use any rail service?

A. No l. c. l. to speak of.

[fol. 1692] Q. Well, all these carriers you have mentioned since I have been talking to you, do you use them on l. t. l. as well as truckload?

A. We aim to hold our l. t. l. truck business to the lines that maintain terminals in Clinton, Iowa.

Q. And what lines are those?

A. Carstensen, Dorn, Rock Island Motor Transit, Western Transportation. I believe that is all.

Mr. Bradshaw: That is all.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Nolan:

Q. You made a statement that you attempt to have the carriers which maintain terminals in Clinton handle your less-than-truckload shipments.

A. That is right.

Q. Would you state why you do that?

A. Because that means ready service, they are there; we don't have to go out of the way to get hold of them; we get them on the phone and the truck is there immediately to pick the merchandise up.

Q. How about tracing outbound shipments and the handling of claims on the lost and damaged shipments?

A. I believe it is much more beneficial to us.

Q. In other words, do you find, where you have an agency terminal right there in Clinton, that you get better service on routings and claims and tracing and things of that character?

[fol. 1693] A. We do.

Q. How many employees do you have at your Clinton plant?

A. About 1,300.

Q. You are the traffic manager and I assume you have several employees working under you?

A. That is right.

Q. How many?

A. Thirteen.

Q. And they do the detail work?

A. Yes, sir.

Q. You are just the traffic manager?

A. That is right; I am just there.

Mr. Nolan: That is all.

Mr. Bradshaw: That is all.

Exam. Carpenter: That is all. You will be excused.

(Witness excused.)

Mr. Nolan: Mr. Shaw, please.

A. C. SHAW was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. You are Mr. A. C. Shaw?
A. Yes, sir.
Q. And you live at Clinton, Iowa?
A. Yes, sir.
Q. And you are the traffic manager of Curtis Company, Inc.?
[fol. 1694] A. Yes, sir.
Q. How long have you been so engaged?
A. Six years.
Q. What traffic experience have you had?
A. I have been in traffic work since 1922; as a railroad agent and operator for the Burlington Railroad, was with the Western Weighing and Inspection Bureau, with the Farm Crops Processing Corporation in Omaha.
Q. And you have been with Curtis Company, Inc., for the last 6 years?
A. That is right.
Q. What is the general nature of the business of the Curtis Company?
A. Manufacturer of building wood-work house frames of all types.
Q. Is that ordinarily referred to as sash and door?
A. That is right.
Q. What is the size of the Curtis Company with regard to the number of employees engaged in the business at Clinton?
A. At Clinton we have about 575 employees.
Q. Does your company have other plants than at Clinton?
A. We have eight other branches.
Q. Where are they located?
A. Topeka, Kansas; Lincoln, Nebraska; Sioux City, Iowa; Minneapolis, Minnesota; Wausau, Wisconsin; New London and Oconto, Wisconsin; and Chicago, Illinois.
[fol. 1695] Q. Mr. Shaw, does your company have occa-

sion to make outbound shipments in l. c. l. or l. t. l. quantities?

A. Yes, sir.

Q. Has your company used the services of the Rock Island Motor Transit Company since you have been at Clinton?

A. Yes, sir.

Q. Has that been a regular use of that service?

A. Regular service. They are our major hauler to the southwest and west.

Q. You say the Rock Island Motor Transit Company is your major hauler of shipments to the southwest and west?

A. Yes, sir.

Q. To what particular territories have you used the services of the Rock Island Motor Transit Company?

A. To all points in the southwestern part of the United States through Kansas City, and to all points west of the Missouri River through Omaha.

Q. State what would be the ordinary size of the shipments which you regularly have transported over the Rock Island Motor Transit Company lines to those territories you mentioned.

A. Most of them would be under 5,000 pounds.

Q. Do you have occasion to make shipments in excess of 5,000 pounds?

A. Very seldom.

Q. Are you familiar with the weight limitation the Rock [fol. 1696] Island Motor Transit Company is now working under?

A. Yes, sir.

Q. Has that interfered with your use of the services of the Rock Island Motor Transit Company since that restriction of maximum weight limitation has been in effect?

A. None whatsoever.

Q. If the Rock Island Motor Transit Company had authority to handle shipments in excess of 5,000 pounds, would there be occasions then your company would use that service?

A. It might be possible. I don't know though. At the

present time I doubt it. At the present time we are in the process of making a survey to determine the practicability of making shipments in 10,000-pound lots.

Q. If you do establish such shipments, would you, if it is made possible, use the service of the Rock Island Motor Transit into the territories you described?

A. Yes.

Q. Has the service of the Rock Island Motor Transit Company out of Clinton been a daily service?

A. I would say it is daily. We forward approximately 300,000 pounds a month by motor freight. There is hardly a day passes that they don't pick up at our plant.

Q. That is Rock Island Motor Transit freight?

A. That is right.

Q. Do you know of any other carrier that is giving the [fol. 1697] same character of service to the territories you described as through the Omaha and Kansas City gateways that the Rock Island Motor Transit gives?

A. No.

Q. And you do have a number of truck lines operating in and through Clinton, Iowa, do you not?

A. Any other service would be joined with that of another carrier.

Q. It would have to be an interline operation?

A. That is right.

Q. What would be the effect on your company's business with respect to shipments through the Omaha and Kansas City gateways if the services of the Rock Island Motor *Company* Transit Company were abandoned or substantially curtailed?

A. Well, for one thing it would delay our shipments, probably cause more damage because of transfer, and our shipments would be more difficult to trace. Our customers would be dissatisfied with the service.

Q. Have you had occasion to make shipments between your plants, such as the one at Lincoln, Nebraska, and Clinton?

A. Yes, sir.

Q. How about between Minneapolis and Clinton? Do you use the Rock Island Motor Transit from Minneapolis?

A. We don't use it very often; there are only just occa-

sional shipments and most of that is handled by H. & W.
[fol. 1698] Q. Evidently that service is satisfactory or you would not use it?

A. That is right; it is very satisfactory.

Q. Now, the fact that the Rock Island Motor Transit Company maintains a terminal and agent and rate information and routing information and so on and so forth at Clinton, is that a service that is available to your company?

A. That is very decidedly a service. It makes it much easier to handle claims, trace shipments, order trucks in, arrange for pickup and delivery. When a company has no terminal or office in a town it is very difficult to use it. In fact, we don't use them.

Q. Do you have any inbound shipments coming in by motor truck?

A. Yes, sir.

Q. Are those handled by the Rock Island Motor Transit?

A. We have some handled by the Rock Island Motor Transit that come in from the east through Chicago.

Q. How about a shipment, say, from Lincoln, Nebraska, to Clinton?

A. Shipments from Lincoln would normally come Rock Island Motor Transit; and we have irregular shipments from some of our dealers who might be returning some material for some reason.

Q. You have dealers such as lumber yards?

A. Lumber companies.

Q. Throughout the entire midwest territory?

A. The entire United States.

[fol. 1699] Q. Do you use the services of the Rock Island Motor Transit Company on shipments to your dealers in the Iowa territory?

A. Yes, we do.

Q. Is it essential to the proper distribution of your merchandise to have that service to Iowa points as well as to interstate points?

A. It is as essential as it is beyond; that is especially true in the southern part of the state.

Mr. Nolan: You may cross examine.

Exam. Carpenter: Cross examine.

Cross examination.

By Mr. Bradshaw:

Q. Mr. Shaw, you have available in Muscatine the same motor carrier services as Mr. Smith testified to here?

A. Yes, sir, that is right.

Q. And that applies to carriers going to the west as well as such cities as Chicago?

A. That is right. We also use Union Freightways, which was not mentioned.

Q. Do you know of any other carriers besides Union Freightways, Carstensen, Rock Island Motor Transit, Western, and Dorn that have terminals in Clinton?

A. I don't know whether Keeshin maintains a terminal there or not, but they maintain an office, they have a telephone and a girl; but other than that there are no others.

Q. What territory does Keeshin serve out of Clinton?

[fol. 1700] A. They serve many points in Iowa; they serve all points in the east. We don't use them. I might qualify that statement——

Mr. Bradshaw: Just a moment. I believe that is all.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Nolan:

Q. There is a statement you said you wanted to qualify. What was that, Mr. Shaw?

A. I said we didn't use Keeshin. That is because some of the motor carriers are very difficult to deal with regarding claims, and we have not been successful in handling claims with them favorably, so we just don't use them.

Q. You mean you don't like their service?

A. That is right. Their service is not satisfactory.

Mr. Nolan: That is all.

Mr. Bradstreet: Nothing further.

Exam. Carpenter: That is all.

(Witness excused.)

Mr. Nolan: Mr. Tolman, please.

G. Robert Tolman was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Your name is G. Robert Tolman?
A. Yes.
Q. You live at Clinton, Iowa?
A. Yes, that is right.
[fol. 1701] Q. And you are connected with the Eclipse Lumber Company?
A. Right.
Q. How many yards does your company have in the State of Iowa?
A. They have about 35 yards here in Iowa.
Q. What is your position with the company?
A. Well, I am not termed as the traffic manager; I more or less set up a traffic department for them. Even though we are shown in the lumber business as a wholesaler, we set up a small traffic department for them. We have a complete file of tariffs. I have worked with some of the industries on routings and rates where we found we could be of assistance. We audit all our own bills and claims.
Q. What is your title or capacity with the Eclipse Lumber Company?
A. It is along the same line of work as that of a traffic manager, although I am not called a traffic manager.
Q. How long have you been connected with the company?
A. Three years.
Q. Do you understand, in general, the nature of this application?
A. Yes.
Q. Does your company use the services of the Rock Island Motor Transit Company into and out of Clinton?
A. Yes, we use it into and out of Clinton, and we use it to perhaps one-fourth of our 35 yards in Iowa.
Q. Do you have yards at any of the points between [fol. 1702] Davenport and Omaha, Nebraska?

A. Directly on Highway 6?

Q. Yes.

A. Actually on Highway 6 we only have one yard.

Q. Where is that located?

A. That is at Adel, west of Des Moines.

Q. How about points which are adjacent to or off of Highway 6 served by the Rock Island Motor Transit?

A. We have several points such as Columbus Junction, Washington, Lone Tree, Fairfield, Kalona which are served by the Rock Island Motor Transit Company.

Q. Those are line yard companies?

A. That is right.

Q. You say you have a yard at Lone Tree?

A. Yes, sir.

Q. Do you have one at Kalona?

A. Yes. We have a yard at Dixon, Dow City, Lenox, Winterset.

Q. Do you have yards at points such as Exira or Audubon?

A. No.

Q. Or is that the S. Hansen Lumber Company yards?

A. I believe that's right.

Q. Insofar as this case is concerned, where you have these yards at points such as Lone Tree, Kalona, Fairfield, Columbus Junction, Washington, Dixon, Dow City, Lenox, does your company use the services of the Rock Island Motor Transit to those points?

[fol. 1703] A. Yes, we do.

Q. What products do you handle at these yards you have mentioned that would move via the Rock Island Motor Transit rather than by rail car?

A. Well, the smaller shipments such as paint, millwork, special orders of millwork, small items of steel, fencing, all merchandise like that. The only things that would not move by motor truck would be mostly carload shipments of lumber and shingles and cement, more or less larger items shipped in carload lots.

Q. Do you have a daily flow of traffic into these yards?

A. Yes. I would say roughly there must probably be 200,000 pounds at least of truckload shipments alone go into these yards.

Mr. Bradshaw: Are you talking about interstate or intrastate commerce?

Mr. Nolan: I was going to develop that.

By Mr. Nolan:

Q. What is the fact as to whether or not a large amount of these shipments are shipments that come from out-of-state points to these local yards?

A. Shipments that would come from Chicago and points east would come to Clinton via the Rock Island Motor Transit; also a lot of shipments going down through the southwest, southwest from St. Louis, would probably move by Dorn to Davenport and then via the Rock Island Motor Transit to points in southwestern Iowa as well as to the southwest. Shipments moving through Kansas City and Omaha to the southwest and west would be interstate movements.

[fol. 1704] Q. Let's take one of your typical yards, say, for instance, at Kalona, Iowa, and there is a shipment of hardware supplies and building supplies moving in less-than-truckload quantities, do they move out of Clinton to such a point as Kalona or do they move from point of supply?

A. From the shipper's place of business.

Q. And those shipments coming from outside of the state may go to any yard owned by your company? Is that right?

A. That is right.

Q. So there are interstate shipments to all those yards in the various towns you referred to? Is that right?

A. Right.

Q. In regard to shipments in and out of Clinton, do you have any traffic moving in interstate commerce over the Rock Island line?

A. Yes, we have shipments that come from the west into Clinton that would probably move via Rock Island line and from the south through St. Louis, also from Chicago; although a lot of our busi- from Chicago and east does come through Carstensen and Rock Island Motor Transit Company.

Q. Where your company is most vitally interested and where it would be very drastically effected, if there was a

termination of the services of the Rock Island Motor Transit, would be in these small towns, wouldn't it?

A. That is right.

[fol. 1705] Q. You are appearing here primarily in the interest of the continuation of the service of the Rock Island Motor Transit to these points like Kalona, Columbus Junction and Adel and points where you have lumber yards, are you not?

A. Yes, to have the Rock Island Motor Transit service continued to all those points which it serves. To abandon or curtail that service would affect us because we would not be able to get the shipments as quickly as we get them now.

Q. Does your company, not only at Clinton but at these other line yard places, have shipments moving in in excess of 5,000 pounds?

A. Not as a rule, although we do have a fair amount of truckload shipments in; but the major share of the truck shipments are l. t. l.

Q. Has your company used the Rock Island Motor Transit Company for small shipments as well as truckload shipments in the past?

A. Yes.

Q. And if the Rock Island Motor Transit rights are restored where they can handle your truckload shipments, will your company have occasion to use that service in the future?

A. There is a possibility of it.

Q. Would that depend on the source of the freight and so on?

A. That is right, the source of the merchandise, the points of origin.

Q. Do you know of any other service than that of the Rock Island Motor Transit which is available to such points as [fol. 1706] Kalona and Columbus Junction and points like that?

A. Well, for instance, down at Columbus Junction the Rock Island is the only carrier that serves that yard—the same is true at Lone Tree—and I don't believe they have been solicited by anyone else, and their service has always been satisfactory both from a claim angle and as far as arrival time of the merchandise is concerned.

Q. When you say "their service" you are referring to the Rock Island Motor Transit service?

A. Right.

Q. Does the fact the Rock Island Motor Transit has an agency at Clinton assist you in your traffic problems?

A. Yes. We always find it better to use a carrier with an office and terminal right in the same town.

Q. Does your company have occasion to make shipments out of Clinton to Iowa points?

A. Yes, we do. There are also some intrastate shipments from Clinton to Iowa destinations which might be interstate in character.

Q. Do you use the Rock Island Motor Transit service for those Iowa shipments out of Clinton?

Mr. Bradshaw: Just a moment.

A. Sometimes, yes.

Exam. Carpenter: Strike the answer.

Mr. Bradshaw: That is objected to on the ground it is [fol. 1707] irrelevant.

Exam. Carpenter: Objection sustained.

Mr. *Norton*: The intervenors represented by me propose to show by the witness, if permitted to answer the question, that shipments are handled by the Rock Island Motor Transit out of Clinton to line yard points which are interstate in character, and that the Rock Island Motor Transit service is the only service available at certain points where this company has yards.

Mr. Bradshaw: I object to Mr. Nolan's testimony.

Exam. Carpenter: That is an offer of proof, Mr. Bradshaw.

Mr. Nolan: That is all.

Exam. Carpenter: Cross examine.

Cross examination.

By Mr. Bradshaw:

Q. As I understand it, you are satisfied with the service of the Rock Island Motor Transit Company?

A. Yes.

Q. Into these small-town lumber yards along Highway 6 and adjacent thereto?

A. Right.

Q. And you have had no occasion to seek out any other carriers who can perform this service?

A. No, we really haven't.

Q. And you haven't done so?

A. No. There have been times when we have gone outside and gotten other carriers to haul truckload shipments [fol. 1708] such as Certainteed products and U. S. Gypsum products; we have gone outside and used contract carriers who can haul it at jobber's rates.

Q. Have you had occasion to use any other carriers into towns such as Adel, Columbus Junction, Fairfield and Kalona?

A. Yes; the Burlington performs some service in there too.

Q. Any other carriers?

A. None I would say right offhand.

Q. Do you know of any you could use?

A. No.

Q. In other words, you haven't familiarized yourself with that?

A. Well, there might be some local contract carriers. They would not be common carriers.

Q. Have you had occasion to use the services of the Iowa-Nebraska Transportation Company?

A. Very seldom.

Q. But you have used them?

A. We have used them, yes, from the southwest, but very seldom.

Q. Now, your shipments in excess of 5,000 pounds in weight into these towns such as Adel, Columbus Junction, Fairfield and Kalona, are rather rare, aren't they?

A. Yes.

Q. However, you have gotten them in when you have had shipments in excess of 5,000 pounds, haven't you?

A. Most of those shipments would be truckload shipments which in most cases are by contract carriers between shipper and consignee.

[fol. 1709] Q. Do you use a considerable contract carrier service in your business?

A. A fair amount; however, not a great deal.
Q. Do you maintain any trucks of your own?
A. Yes, we do. They haul between our own yards where we have been trying to cut down large inventories. It has worked out pretty successful.

Mr. Bradshaw: I believe that is all.
Exam. Carpenter: Redirect.
Mr. Nolan: That is all.
Exam. Carpenter: That is all. You are excused.

(Witness excused.)

Mr. Howland: Mr. Stolley, please.

HAROLD STOLLEY was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name?
A. Harold Stolley.
Q. Your home is where?
A. In Clinton, Iowa.
Q. Your business is what?
A. Terminal Agent for the Rock Island Motor Transit.
Q. The Rock Island Motor Transit Company has what facilities in Clinton in the way of pickup and delivery service, and how many pickup and delivery trucks do you have? [fol. 1710] A. We have one pickup and delivery truck there at all times; and we get trailers and tractors out of Davenport, we have one that comes up regularly every day.
Q. Davenport is a sort of center of the operations as far as the eastern part of the state is concerned, is it not?
A. What we call the hub.
Q. And there are units of equipment available at Clinton?
A. That is right.
Q. How far is Clinton from Davenport?
A. Approximately 40 miles.
Q. How many people do you have working for the Rock Island Motor Transit at Clinton?

A. I have an office girl and myself, and the driver comes up daily from Davenport and goes back at night.

Q. Your pickup and delivery driver does not live in Clinton?

A. No, sir.

Q. He performs the pickup and delivery service and then takes the road unit back to Davenport? Is that right?

A. That is correct.

Q. About what time does the truck destined from Davenport to Clinton leave Davenport?

A. 7 o'clock.

Q. 7 a. m.?

A. Yes, sir.

Q. And arrives there somewhere a little after 8 a. m.? [fol. 1711] A. Between 8 and 10 depending on how much stuff he peddles between Davenport and Clinton.

Q. Now, the Rock Island Motor Transit facilities there, are they located in the same building as the Rock Island Railroad freight house?

A. They have a joint freight house, the Burlington and the Rock Island; we have the back end of the freight house for our office and dock.

Q. But the freight house itself is owned by the C. B. & Q. Railroad?

A. That is correct.

Q. About what time does your over-the-road unit leave Clinton for Davenport?

A. He is scheduled to leave at 4 o'clock but sometimes he leaves as late as 5 depending on the volume of freight to be picked up that day.

Q. And if you need additional units of equipment to handle your business, I take it, you could and do get those out of Davenport?

A. That is right.

Q. Now, the service out of Davenport to points east is the service to Chicago. Do you perform next day delivery to Chicago?

A. Next morning.

Q. Does your man who comes up from Davenport perform any pickup and delivery service for the railroad at Clinton?

A. Yes.

[fol. 1712] Q. What other rail carriers are there in Clinton besides the Burlington Railroad and the Rock Island?

A. The Milwaukee and the Northwestern.

Q. And the Milwaukee operates from the Twin Cities down through Clinton and thence to Kansas City. Is that right?

A. That is right.

Q. And that is the main line of the Northwestern east and west?

A. Yes.

Q. Is there a unit of equipment there which you operate part of the time?

A. Oh, yes, we perform frequent pickup and delivery service.

Q. You handle pickup and delivery services as the occasion requires?

A. That is correct.

Q. And this pickup and delivery unit which you operate, it stays right there in Clinton all the time?

A. That is right.

Q. And the over-the-road man takes it back but he performs pickup and delivery service from about 9 o'clock until 4 in the afternoon?

A. That is right.

Mr. Howland: That is all.

Exam. Carpenter: Cross examine.

Cross examination.

By Mr. Bradshaw:

Q. Now, Mr. Stolley, as I understand it, you have a [fol. 1713] pickup and delivery truck that you operate out of your office that stays in Clinton all the time?

A. That is right.

Q. And you pick up both rail freight and truck freight on that same truck?

A. That is right.

Q. And then a man comes up from Davenport with a bigger truck, the Rock Island Motor Transit truck?

A. That is right.

Q. And you load that rail and motor freight on to his truck and he then takes it to Davenport?

A. That is right.
Q. You don't pick up any rail freight for the Burlington?
A. No.
Q. Or the Northwestern?
A. No.
Q. Just for the Rock Island Railroad?
A. That is right.
Q. I suppose they sometimes will send up more than one truck?
A. As the business warrants.
Q. Do you yourself operate that truck in Clinton?
A. Yes.
Q. You drive it yourself?
A. That is right.

Mr. Bradshaw: I believe that is all.

[fol. 1714] Redirect examination.

By Exam. Carpenter:

Q. Is the truck that is maintained at Clinton the only truck that is used for pickup and delivery service?
A. Well, the one that comes up from Davenport is used too.
Q. You use the over-the-road truck also for pickup and delivery service?
A. Yes.

Exam. Carpenter: Any redirect?
Mr. Howland: That is all.
Exam. Carpenter: The witness is excused.

(Witness excused.)

Exam. Carpenter: We will recess for lunch until 1:30 p. m.

(Whereupon, at 12 Noon, a recess was taken, the hearing reconvening at 1:30 p. m., as follows:)

Afternoon Session 1:30 p. m.

Exam. Carpenter: We are reconvened. You may proceed.
Mr. Howland: I will call Mr. Triggs.

FRED TRIGGS was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. You may state your name; and in giving your answers please speak out so we can all hear you, Mr. Triggs.

A. All right. Fred Triggs is my name.

Q. Spell it.

A. T-r-i-g-g-s. I live in Des Moines, Iowa, my office is at [fol. 1715] 200 Plymouth Building, Des Moines.

Q. You live in Des Moines and you- office in Des Moines?

A. Yes, sir. I have lived here since 1919.

Q. What is your business?

A. I operate as a manufacturers' agent.

Q. Just what type and character of business generally have you been conducting in recent years?

A. To be very brief, a few years ago the factories used to have one man represent them in a large territory; the last few years several companies used one man to represent related lines in a smaller territory.

Q. What particular commodities do you sell?

A. Heating and plumbing equipment.

Q. Heating and plumbing equipment has been the principal items of merchandise?

A. Yes, sir. Most of it is from Chicago and Hartford, Connecticut, and Waukegan, Illinois.

Q. In the last few years have you been operating in particular where the shipments have been made direct from the factory with which you are associated to the purchaser or wholesaler?

A. Most cases are that way. About 5 or 10 percent of it comes to me and I handle it for emergency or to try to even up an uneven flow of material.

Q. Generally speaking, what type and character of transportation have you used in connection with these shipments [fol. 1716] direct from the manufacturer to your wholesaler or customer?

A. Until I was sort of halfway stopped doing it, I was using the trucking system mostly.

Q. And that was the truck line of the Rock Island Motor Transit?

A. I used them mostly.

Q. And were those shipments made in truckload lots for the most part?

A. I would say for the most part, no. I would have probably one-third of them truckload, and the rest was what, I believe, you would call l. c. l., small shipments.

Q. And would some of those shipments range above 5,000 pounds?

A. In 5,000-pound lots, and also in quantity shipments of more than 5,000 pounds. Practically all boilers are above 5,000 pounds.

Q. So your shipments might range from 100 pounds up to——

A. To 20,000 and 30,000 pounds.

Q. Up to a full truckload?

A. Yes, sir.

Q. And those shipments were made, you say, from those points of origin outside of the State of Iowa which you have detailed?

A. Everything is from outside of the State of Iowa except what small amount I ship from my own emergency stock.

Q. And that would be a relatively small amount?

A. Yes, sir.

Q. Now, effective in August of 1951, you are aware, of [fol. 1717] course I take it, that the Rock Island Motor Transit Company since that date has been operating subject to certain weight limitations?

A. I found that out, sir.

Q. Has that weight limitation had any effect on your business operations?

A. I would say it has caused me considerable inconvenience and a little extra expense.

Q. Just explain why that has been true.

A. Well, I would ship a load in by railroad and in the end it consumed a lot of extra time and was an added expense for me.

Q. About how much difference in time is there on a shipment from, say, Waukegan, Illinois, by railroad as compared with the service you had previously by truckload?

A. Strange as it may seem on one occasion I had several boilers shipped from Waukegan to Des Moines which arrived here between 2 and 3 weeks after shipment; one took 2 weeks; I had one a year ago from Waukegan to near Des Moines which took pretty nearly 3 weeks. I don't think that should be necessary. It seems that is what I have to contend with.

Q. That is the experience you have had in making rail shipments?

A. Yes, sir.

Q. In other words, most of those rail shipments that you have made is mostly merchandise already sold?

A. Yes, sir, and I am waiting for it; once in a while it is very urgent. For instance, there was one boiler that broke [fol. 1718] down and they ordered a new one and I called the factory. Sometimes a few hours make a great deal of difference in the delivery; I mean the damage to the property due to lack of heat.

Q. Well, in some instances, I take it, you have had these shipments made to a wholesale house as a matter of putting the shipments in stock, and in other instances the shipments are made on what we call an advance sale or when they have, in fact, already been sold and it is a matter of immediate delivery.

A. That is right. Some they are in no hurry for and others are strictly emergency.

Q. How have you been handling these shipments you formerly made in quantities in excess of 5,000 pounds, Mr. Triggs?

A. I beg your pardon. I didn't get that.

Q. How have you been making these shipments in excess of 5,000 pounds that you formerly made by the line of the Rock Island Motor Transit Company?

A. I hunted around and found some other carrier that will handle it. There was one exception and that was where I tried carload shipment by rail.

Q. And you have had unfavorable experience in attempting to get shipments in by rail?

A. I don't like to say anything against another trucking line. My experience was very satisfactory with the Rock Island Motor Transit and I use them for that reason.

Q. Has it been quite as satisfactory when you have been [fol. 1719] dealing with other trucking concerns, without naming any names?

A. It doesn't seem so to me, sir. I would like to not explain some of those sad experiences I have had.

Q. Well, Mr. Triggs, based on your experience and on your business, do you feel that there is a need for the type and character of service on your heavier shipments that were formerly handled for you by the Rock Island Motor Transit Company?

A. If you will let me answer it in my own way I would say, "Please let me ship the way it was before the restriction went in and I will be happy about it". I would like to have the privilege of shipping full truckloads via the Rock Island Motor Transit Company.

Q. And you have not found any other service that is satisfactory?

A. In all cases, no, sir. In some cases, far from it.

Q. Now, these shipments that you have from eastern points such as Hartford, Connecticut, is that type and character of merchandise customarily stocked by any dealer here in the City of Des Moines?

A. It is stocked by wholesale houses to a certain extent but, of course, they cannot carry the complete line.

Q. Are there certain items on which you, as the manufacturer's agent or representative, are the source of supply for these contractors and dealers as well as the wholesalers?

A. I don't hardly catch just what you mean.

Exam. Carpenter: Read the question.

[fol. 1720] (Question read.)

A. Part of the equipment I sell goes into the jobber stock, and a large part of it that is already sold by the wholesale house is shipped direct to the dealer and delivered direct to the job.

By Mr. Howland:

Q. I take it you make sales direct to the contractors where the new buildings are under construction?

A. I had the invoice through the wholesale house. The shipment goes direct to the contractor.

Mr. Howland: You may cross examine.
Exam. Carpenter: Cross examine.

Cross examination.

By Mr. Bradshaw:

Q. Did all this traffic come into Des Moines?
A. No, sir, not all; all my business don't.
Q. Are you familiar with this application of the Rock Island Motor Transit Company?
A. I am not trying to evade the question. I understand they are trying to get the privilege of hauling a full load.
Q. I mean, do you understand the territory involved here.
A. Not in detail, no, sir. I am not in the transportation business only as a user.
Q. Well, maybe we can get at it in this way: What points other than Des Moines along Highway 6 between Davenport and Omaha do you serve?
A. Iowa City, Cedar Rapids, Grinnell, Newton, Des Moines; some west but not in such a large volume on No. 6.
[fol. 1721] Q. That is where the wholesale houses are?
A. No; that is the cities where the jobs are. The wholesale houses are at Moline, Davenport, Iowa City, Cedar Rapids and Des Moines. Possibly one-half to two-thirds of my shipments go to the job rather than into the jobbers' stocks.
Q. You recently, then, had jobs at Iowa City, Grinnell and Newton?
A. Within the last year at all of them.
Q. How about within the last 6 months?
A. Most of them.
Q. At those points?
A. Yes, I have had some into every one of those points.
Q. Within the last 6 months?
A. Yes.
Q. Have you had any shipments over 5,000 pounds to any one of those points in the last 6 months?
A. Not in those points outside of Des Moines.
Q. Des Moines is the only point where you have had

shipments heavier than 5,000 pounds within the last 6 months?

A. May I qualify that statement?

Q. Certainly.

A. Part of it I couldn't get delivery on that quantity.

Q. Where was the point you couldn't get delivery on?

A. I mean I couldn't get shipments from the factory over 5,000 pounds.

[fol. 1722] Q. It was not a transportation problem?

A. No. The reason I didn't have over 5,000 pounds was the fact they wouldn't release larger shipments at that time. Since that time I have been able to get larger shipments.

Q. Well, then, it has only been since the restriction was put on that you have had occasion to look for transportation on shipments over 5,000 pounds into Des Moines. Is that right?

A. On the Hartford connection that is correct; on the Wa-kegan connection I have a shipment now coming into Newton.

Q. How is that coming?

A. It is over 5,000 pounds and I want to use a truck.

Q. Who is bringing it in?

A. I haven't decided yet.

Q. Have you made any investigation to see who could bring it in?

A. Not yet.

Q. You are not very much concerned about it?

A. I will find out before I have it shipped.

Q. You don't have any trouble finding a shipper to bring a shipment from Waukegan into Des Moines, do you?

A. No.

Q. Who did you use on those shipments?

A. In the past?

Q. In the past 6 months.

A. Well, I guess I haven't had any between here and there in the last 6 months.

[fol. 1723] Q. How about between Hartford and Des Moines?

By Exam. Carpenter:

Q. You said between here and there. You mean——

A. Between here and the Tri-Cities; that is the limit of my territory.

Exam. Carpenter: Please read the question.

(Question read.)

A. I haven't had a shipment of over 5,000 pounds from Hartford except to Des Moines.

By Mr. Bradshaw:

Q. Who carried that shipment for you?

A. That came in on the Rock Island Railroad.

Q. Did you attempt to get trucker shipment on that?

A. No, sir.

Q. Do you know what the truck service is between Hartford and Des Moines?

A. Some of them; I don't know them all, sir, just a few of them.

Q. Could you name a few of them?

A. As much as I could I used Spector to Chicago, Rock Island Motor Transit to Des Moines.

Q. Let's go back, now. If you were looking for a carrier that could carry a shipment over 5,000 pounds in weight to Des Moines from Hartford, do you have any in mind you could use?

A. Why, I guess Des Moines Transit, Watson, Western——

Q. In other words, there are a number of them, aren't there?

A. There are some more, yes.

[fol. 1724] By Exam. Carpenter:

Q. Out of Chicago?

A. Yes. I had such an experience the other day. I didn't look around until I had to.

By Mr. Bradshaw:

Q. That is what I am getting at. You have been satisfied with the Rock Island Motor Transit service and haven't had occasion to look around for other service.

A. That is right.

Q. And you are not here saying service is not available?

A. I will add I have had a little unfavorable experience.

Q. But you are not here saying service is not available?

A. No, sir.

Q. By that I mean, there is service available from all the points from where you ship into Des Moines?

A. Of some kind, you mean?

Q. Yes.

A. I would call up the Rock Island and they would tell me who could handle it.

Q. Just a moment.

A. I don't know sir.

Q. In other words, you depend on the Rock Island to tell you who to ship by?

A. There are towns to which I don't know the service and I call them up and ask them who to ship by.

Q. I take it from your testimony that on your l. t. l. shipments you use the Rock Island exclusively.

[fol. 1725] A. As much as I can.

Q. And by the same token you have had no occasion to look for other transportation?

A. That is right, sir.

Q. But you are aware there are other carriers operating between Waukegan and Iowa City that could carry your line of merchandise?

A. Yes.

Q. And between Waukegan and Grinnell?

A. Yes.

Q. And between Waukegan and Newton?

A. Yes.

Q. You mentioned that you had a 3-week delay on a boiler a year ago. Is that correct?

A. I didn't mean to state it quite that way, because I haven't used that service for a long time.

Q. Just a minute. Answer my question. Is it correct that you had a 3-week delay on a boiler a year ago?

A. Maybe it was longer than that, sir.

By Exam. Carpenter:

Q. Was it a 3-week delay or did it take 3 weeks to get the service?

A. It took 3 weeks to get it from Waukegan to Des Moines. That is what I meant to say.

By Mr. Bradshaw:

Q. Now, you complained that on these emergency shipments there was some damage due to lack of heat. Can you [fol. 1726] give me a specific instance?

A. I didn't mean to say it quite that way. I meant to say in the winter time, when the heating plant breaks down, delivery is extremely important. In most cases they avoid damages by making temporary provision to heat some way, sometimes at a great deal of expense. I couldn't set out any special case where they suffered damage.

Q. In other words, you have been able to get your goods into this territory one way or another?

A. Do you want me to answer that my way?

Q. I want you to answer it yes or no.

Mr. Howland: Go ahead and answer it your own way.

Exam. Carpenter: Go ahead and answer it to suit yourself.

A. This last winter I didn't have an emergency I couldn't take care of from the factory because I had it in Des Moines.

By Mr. Bradshaw:

Q. In other words, you were well stocked?

A. There was one occasion when I had the emergency call at 9 o'clock in the morning and at 11 o'clock the Rock Island was taking it to Grinnell. I appreciate that kind of service.

Mr. Bradshaw: I believe that is all.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Howland:

Q. Mr. Triggs, without naming the particular carriers you say you have had some difficulties in shipping with, describe what those difficulties have been, by example if you [fol. 1727] care to or in general terms.

Mr. Bradshaw: Just a moment. I want to object to that unless it is limited as to time.

Mr. Howland: I am speaking of within the last 7 months, since August of 1951.

A. I haven't had any trouble in the last 6 months.

By Mr. Howland:

Q. Well, did you have difficulties prior to that with other companies in the transportation field?

Mr. Bradshaw: Objection on the ground the questions calls for something too remote in time to the issue here; it is irrelevant.

Exam. Carpenter: I think it should be limited to some time.

By Mr. Howland:

Q. Well, within the period of the last two years have you had difficulties with other transportation companies?

Exam. Carpenter: The objection is overruled.

By Mr. Howland:

Q. You referred to some instance, as I recall. I am not asking you to name the carrier, but just tell us what your experience has been in getting service on these less-than-truckload quantities from other carriers.

A. The worst experience I had was a matter of 5 pieces weighing a total of about 1,000 pounds. I carry my stock on certain items at my home in a double garage. They billed five pieces. My wife signed the freight bill for four pieces and they delivered three. I contacted the people; they said, "Our record shows three pieces". I said, "Why [fol. 1728] did you have my wife sign for four pieces?" The next day they brought one piece and asked my wife to sign the receipt. The next day they brought the fifth piece, but they didn't ask for my wife's signature on the receipt. Those pieces evidently must have got separated, which could happen.

Mr. Howland: I think that is all.

Exam. Carpenter: Any recross?
Mr. Bradshaw: No recross.
Exam. Carpenter: You will be excused.

(Witness excused.)

Mr. Howland: Mr. Louberto, please.

LOUIE LOUBERTO was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Please state your name.
A. Louie Louberto.
Q. Where do you live?
A. Des Moines, Iowa.
Q. What is your business, Mr. Louberto?
A. Traffic manager for Brown-Camp Hardware.
Q. How long have you worked for that concern?
A. Since 1929.
Q. The Brown-Camp Company is the wholesale house right across the Des Moines River from the Federal Building and you can see the warehouse and store from this location, can you not?
[fol. 1729] A. That is right.
Q. Mr. Louberto, what is the business of the Brown-Camp Company?
A. We deal in wholesale hardware. Our transportation covers the entire State of Iowa and a few points in Missouri.
Q. And that is the general line of hardware and some appliances?
A. That is right.
Q. You have a line of gas stoves, I believe?
A. Yes, we do.
Q. And paints?
A. That is right.
Q. You have your shipments coming into your wholesale house here from what general territory?

A. Well, mostly from the eastern part of the United States.

Q. I take it that your business consists in selling to dealers in the territory that you generally described?

A. That is right.

Q. So that you are interested in both your inbound business from your points of supply to Des Moines, Iowa, and in the transportation from Des Moines to the dealers' locations?

A. That is right.

Q. Who generally controls the routing on your inbound shipments?

A. We do.

Q. You specify the type and character of shipping that you desire?

A. That is right.

[fol. 1730] Q. And who is it that controls the routing on your outbound shipments from your plant here?

A. Well, it is generally the dealer.

Q. And as a matter of service to the dealers you respect their routings?

A. That is right.

Q. Do you have accounts in the territory between Davenport on the easterly border of the State of Iowa through to Omaha, Nebraska, at points on and adjacent to U. S. Highway No. 6?

A. Yes, we do.

Q. What type and character of transportation service do you use for getting your inbound shipments in?

A. Well, the greater precentage of our inbound shipments come in in carload lots; however, in recent years we have gone to truckload shipping.

Q. Is that true from points like Chicago and farther east?

A. That is right.

Q. You understand, Mr. Louberto, that in this application the Rock Island Motor Transit Company seeks permanent authority to render service in interstate commerce to points located between Davenport, Iowa, and Omaha, Nebraska, most of which are on or adjacent to U. S. Highway No. 6 such as Muscatine, Cedar Rapids and certain other off-route points, do you not?

A. Yes, I understand that.

Q. All right. In what way are you interested in this application?

[fol. 1731] A. Well, from our distribution standpoint on shipments from Des Moines to our dealers in the territory between East Moline, Illinois, and Omaha, Nebraska. We have dealers in both of those towns you mentioned as well as the other intrastate movements from Des Moines.

Mr. Bradshaw: Just a minute. You are getting into intrastate commerce. I want to move the answer be stricken insofar as it pertains to intrastate movements.

Exam. Carpenter: It may be stricken.

By Mr. Howland:

Q. Mr. Louberto, you now have the service of the Rock Island Motor Transit Company available to you both for inbound movements to Des Moines and outbound movements into the general dealer territory. That is true, is it not?

A. That is right.

Q. And in the event the Rock Island Motor Transit interstate service is restricted and limitations are imposed upon that operation, will that have any effect, in your judgment, on the over-all service which the Rock Island Motor Transit Company may be able to render you in both interstate and intrastate transportation?

A. Yes, I believe it would.

Q. Why is that so?

A. Well, if that restriction is placed on their service, I don't believe they will be able to render the service that we are enjoying now, or rather did enjoy when they didn't [fol. 1732] have the restriction on l. t. l. shipments.

Q. You are aware there is a 5,000-pound restriction?

A. But I am speaking of shipments below 5,000 pounds on our outbound shipments.

Q. All of your outbound shipments are less than 5,000 pounds each?

A. That is right.

Q. But on your inbound shipments what is the fact?

A. Some are full truckloads, others are 10,000 or 12,000 pounds depending on the commodity.

Q. And with respect to your inbound shipments are you affected by that 5,000-pound restriction?

A. Well, not necessarily; although it would be inconvenient sometimes where we have established a regular movement.

Q. Well, prior to August 1951 did you have any instances that you have in mind where you had established a regular movement from point of origin to Des Moines, Iowa, over this route?

A. Yes, we had some that were regularly established routes.

Q. What did you do in order to get that business handled?

A. We had to give it to another carrier.

Q. Well, did that have any effect with respect to the operation of your business down here?

A. Well, not necessarily to our business. So far as the Rock Island Motor Transit was concerned it had some effect on their business.

[fol. 1733] Q. What do you mean by that answer? Explain that in a little more detail.

A. Well, if they were restricted to handling shipments of less than 5,000 pounds, which would reduce their tonnage and their business as far as we are concerned on the interstate movement, there is a possibility the intrastate service would be curtailed on account of the loss of the interstate business; therefore, we would be at a loss to make the usual good service to our dealers on Highway No. 6 and towns adjacent to Highway 6 in Iowa.

Q. Now, Mr. Louberto, do you have occasion to make what sometimes is referred to, I believe, as overhead shipments where a dealer places an order with your concern here in Des Moines and the shipment is made direct from the manufacturer or the factory to the dealer's establishment, say, at Oskaloosa or Muscatine or Davenport or Atlantic Iowa?

A. Yes, we have occasion for direct service on direct shipments as we call them.

Q. About how frequently does that occur?

A. Well, it depends. I can't tell you how frequently it might be; it depends on the availability of the merchandise. Sometimes we can't carry enough merchandise in

our own stock in Des Moines and we wire or call the factory and they can make a shipment directly to our dealer.

Q. Is that the usual and ordinary method of handling your business on larger orders?

[fol. 1734] A. Well, in our case it depends on the commodity.

Q. Well, in the case of certain types of merchandise?

A. That is right.

Q. On shipments of that character, which you have referred to as direct shipments destined to points on or adjacent to Highway 6 across the State of Iowa, what carrier or carriers do you specify?

A. On the direct shipments to those points?

Q. Yes.

A. Usually the Rock Island Motor Transit because they are the direct carrier and can give the best service.

Q. You have followed that practice in the past?

A. That is right.

Mr. Howland: I think that is all I have.

Exam. Carpenter: Cross examine.

Cross examination.

By Mr. Bradshaw:

Q. Let's see if I have this picture right, Mr. Louberto. On inbound it is mostly carload or truckload?

A. That is right.

Q. And you are getting service on that at this time?

A. Well, yes, we are getting service, but in some cases——

Mr. Bradshaw: Just a minute.

Mr. Howland: Just a minute. I insist the witness be permitted to answer.

Mr. Bradshaw: He did answer. I didn't ask him to make a speech. I am asking him to answer the question.

[fol. 1735] Mr. Nolan: Let him explain his answer.

Exam. Carpenter: Read the question and the answer.

(Question and answer read.)

Exam. Carpenter: Let it stand the way it is.

By Mr. Bradshaw:

Q. What carriers are you using on your inbound truckload shipments from the east?

A. You want the specific carriers?

Q. Yes.

A. Well, since we haven't been able to use the Rock Island Motor Transit Company, we are using Des Moines Transportation Company.

Q. Is that the only one?

A. That is the principal one.

Q. What are the others?

A. We don't like to use the others if we can use——

Q. What are the others?

A. Occasionally we have used Western Transportation Company; but we don't like to use those carriers.

Q. I would appreciate it, Mr. Louberto, if you would just answer my questions and not comment on them.

A. O. K.

Q. Now, we have as an answer to my last question that you use the Des Moines Transportation and the Western Transportation companies. Do you use any other carriers on your inbound shipments from the east?

A. We don't specify it. Occasional-y the shipper will [fol. 1736] use a route——

Mr. Bradshaw: Read the question.

(Question read.)

Exam. Carpenter: The answer to it is "No".

A. No, we don't specify the route.

By Mr. Bradshaw:

Q. All right: Do any other carriers bring your inbound shipments to the Brown-Camp Hardware Company here in Des Moines from the east?

A. Yes, they do.

Q. What are the names of those carriers?

A. Well, at one time or another probably all of them that operate into Des Moines.

Q. And that is quite a number?

A. Well, there are quite a few. Possibly not every one of them but probably the majority of them.

Q. What are the points you ship to out of Des Moines in interstate commerce?

A. Moline and Omaha.

Q. Those shipments, as I understand it, are all l. t. l.?

A. That is right.

Q. And less than 5,000 pounds?

A. Yes.

Q. Are they less than 3,000 pounds?

A. Well, sometimes they might run over 3,000 pounds.

Q. Approximately what percentage runs over 3,000 pounds?

[fol. 1737] A. Oh, probably— Maybe 25 percent.

Q. What percentage runs over 2,000 pounds?

A. Well, I couldn't very well say without making a detailed study on that.

Q. Are there any points you ship to in interstate commerce?

A. Well, no, as far as this application here is concerned. Occasionally we will send a shipment back to one of our factories.

Q. That would be in the east?

A. Yes, Chicago and east.

Q. And you would have the same transportation facilities going back as you have coming? Is that right?

A. That is right.

Mr. Bradshaw: I believe that is all.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Howland:

Q. Mr. Louberto, you started to say that in some cases shipments had come in by other lines than the Des Moines Transportation Company. What was it that you desired to add to that answer?

A. I don't remember now just what the question was.

Q. Well, the question was, as I recall, what transportation companies perform service other than the Des Moines

Transportation Company to the Brown-Camp Company from points east of the Mississippi River; and you started to make some answer with respect to the routing or something of that sort. Do you recall what that was?

[fol. 1738] A. Well, in some cases the factory don't follow our routing instructions and they give it to a different carrier in Chicago.

Q. What reason is there for not using these other carriers you referred to other than the Des Moines Transportation Company?

A. Because they do not have intrastate service to help us out on our intrastate shipments.

Q. Is it true, then, you have followed the policy of patronizing the carriers with your truckload shipments in interstate commerce where the carrier also has intrastate transportation availal e?

A. That has been our policy for the last 10 years.

Mr. Howland: I think that is all.

Exam. Carpenter: Recross.

Mr. Bradshaw: No recross.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Howland: Mr. Shartnack, please.

Leo Shartnack was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, please?

A. Leo Shartnack.

Q. Do you live here in the City of Des Moines, Mr. Shartnack?

A. I live in West Des Moines.

[fol. 1739] Q. Your business is what?

A. Well, I work as a clerk for the Des Moines Drug Company at the present time.

Q. In what business is the Des Moines Drug Company engaged?

A. It is in the wholesale distribution business of drugs, chemicals, turpentines, linseed oils and numerous sundry items.

Q. What, if anything, do you have to do with respect to the distribution of the shipments of the Des Moines Drug Company, Mr. Shartnack?

A. You mean what have I to do in connection with them?

Q. Yes; what is your part of the work?

A. Well, at the present time I more or less engage in the work of routing those orders, outbound orders. Prior to the 1st of February I was shipping clerk.

Q. Now, the Des Moines Drug Company is engaged generally in the wholesale drug business in the lines you have told us about?

A. Yes, sir.

Q. You have, of course, both an inbound transportation service and an outbound service for the distribution of your products, do you not?

A. That is right.

Q. Have you had anything to do with the inbound movement of shipments into Des Moines?

A. I have done no actual routing of those shipments, no. I have worked in the capacity where I have seen the service rendered and the way the merchandise does come.

[fol. 1740] Q. How is that merchandise handled inbound to the Des Moines Drug Company? By what transportation agencies?

A. Well, we us the truck lines and the railroads.

Q. You have a warehouse and distribution center located on Fourth Street in Des Moines?

A. That is right.

Q. Do you have occasion to have truckload shipments of merchandise come into your plant?

A. We have several— Well, I wouldn't say we have complete truckloads, but three or four shipments a month which may run to a truckload. Most of the time they are less than a truckload. Other than that it is mostly all l. t. l. by truck.

Q. Do some of those shipments exceed 5,000 pounds in weight?

A. Yes, sir.

Q. Prior to August 1951 what carriers handled those shipments into the Des Moines Drug Company plant?

A. Well, from the east we have used Rock Island and Des Moines Transportation Company, Western, and several other lines which I can't recall right now.

Q. If the Rock Island Motor Transit Company were able to handle shipments in excess of 5,000 pounds from points outside of the State of Iowa, would your company use that service?

A. Yes, sir, I believe they would.

Q. Generally speaking, how has the service on such shipments prior to August 1951 compared with the service [fol. 1741] rendered by other truck companies? Has it been satisfactory or otherwise?

A. As far as I know it has been satisfactory. However, I am not in a position to know the exact date of the orders nor the date those shipments were forwarded, having not done the ordering. I receive the merchandise but I could not tell the exact elapsed time.

Q. You have what is sometimes referred to as direct shipments from the manufacturer to a particular dealer located in a town in Iowa, do you not?

A. We do have, yes, but none that would exceed the 5,000-pound limit.

Q. Now, the Des Moines Drug Company sells generally to dealers engaged in the drug business at retail in the State of Iowa and to some extent outside of the State of Iowa direct, I take it. Is that true?

A. Well, most of it is in the boundaries of the state.

Q. Does that include the territory between Des Moines and Davenport and between Des Moines and Omaha, the towns located on or near U. S. Highway No. 6?

A. Yes, it does.

Q. Are there occasions when those direct shipments may be made from out-state points of origin to dealers located on that highway and in the manner you have described?

A. I don't quite understand that.

[fol. 1742] Exam. Carpenter: Read the question.

(Question read.)

By Mr. Howland:

Q. Do you have occasion to make these direct shipments from an out-state manufacturer direct to a dealer in this territory that is covered by this application?

A. Well, on direct shipments I would say no, very seldom. I would say occasionally.

Q. You don't have many direct shipments from the factory to the dealer?

A. No.

Mr. Howland: You may cross examine.

Exam. Carpenter: Cross examine.

Cross examination.

By Mr. Bradshaw:

Q. Mr. Shartnack, who in the firm of the Des Moines Drug Company specifies the carriers?

A. The buyers usually in ordering. I understand that would be on inbound merchandise.

Q. On inbound, yes.

A. Our buyers would do the specifying of the carrier.

Q. Prior to coming up here have you discussed this matter with the buyers?

A. No, sir, I haven't.

Q. That was your answer to Mr. Howland's question as to the use of the Rock Island Motor Transit Company, in case the restriction was lifted, purely speculation on your part?

[fol. 1743] A. That is, it has been used in the past.

Q. In other words, you gave that as a statement of an employee as an observation and that is all?

A. Yes, that is true.

Q. You would not have any say as to policy in regard to that, would you?

A. No, sir, I do not have.

Q. The fact of the matter is that the policy might be laid down even by the buyers' head, mightn't it?

A. Yes, that is right.

Mr. Bradshaw: I believe that is all.

Exam. Carpenter: Redirect.

Mr. Howland: Nothing further.

Exam. Carpenter: That is all. You will be excused.

(Witness excused.)

Mr. Howland: Mr. Brody, please.

LEON BRODY was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Please state your name.

A. Leon Brody.

Q. Mr. Brody, you live here in Des Moines and have for many years?

A. Yes, sir.

Q. You are connected with the Brody Manufacturing concern on Court Avenue?

[fol. 1744] A. Yes, sir.

Q. In what capacity are you connected with that concern?

A. Oh, buyer, seller, everything.

Q. I believe it is being operated at this time by a cousin of yours, Mr. Julian Brody, isn't it?

A. Yes, sir.

Q. What business is carried on there?

A. We buy merchandise, get it in and then distribute it.

Q. Do you have many manufacturing operations there now?

A. No, we don't.

Q. What types of business do you deal in?

A. Mainly men's wares, underwa*re*, hosiery, shirts, all outer garments, clothing, no men's suits.

Q. Do you handle a line of work clothing?

A. Yes, sir.

Q. Are you familiar with the shipping?

A. Somewhat.

Q. Particularly on inbound shipments of merchandise?

A. Well, yes, inbound and outbound both.

Q. Where are your principal suppliers of merchandise that you handle there located?

A. Throughout the country. It might be any place south, east.

Q. How are those shipments customarily made to your place of business from the points of origin?

A. Well, railroads, trucking companies, carloading companies.

[fol. 1745] Q. In what quantities do those shipments customarily move?

A. Oh, I would say they run from 100 pounds up to 1,000 pounds on an average.

Q. Do you ever have full truckload shipments of merchandise?

A. Very rarely.

Q. It would be a rather rare occasion when you did have them?

A. Yes.

Q. Have you in the past used the services of the Rock Island Motor Transit Company on inbound shipments?

A. On inbound, yes, sir.

Q. How has that service been with respect to being satisfactory or otherwise?

A. Well, it has been quite satisfactory because we have quite a little personal contact with them and keep after them.

Q. What about your outbound movements? In what territory do you sell your merchandise?

A. Throughout Iowa, Nebraska, the Dakotas, Missouri and Minnesota.

Q. Do you have dealers handling your merchandise lines in eastern Nebraska?

A. Yes.

Q. I take it you do have occasion to make shipments from your place of business here in Des Moines through what we refer to as the Omaha gateway?

A. Yes, sir.

[fol. 1746] Q. What lines have handled that business for you and are now handling it?

A. Oh, I don't know; we used to have direct shipping to Lincoln, also to Omaha. The Rock Island said they would

give us overnight service, and all at once they cut off our overnight service to those two points so we had to find someone else. It is very important to have quick shipping if you can get it.

Q. When was that overnight service discontinued?

A. About 6 months ago was when we had our trouble.

Q. And if that overnight service were available to Omaha and Lincoln, would you patronize the Rock Island Motor Transit Company?

A. Yes.

Q. I take it you have no shipments into that territory, generally, where they are large volume shipments in excess of 5,000 pounds?

A. No, we don't have.

Q. About how frequently did you use this service prior to the time you used the overnight service which was discontinued?

A. Well, the orders came rather indefinitely; sometimes it would be once a month, maybe once a week.

Q. Your need for service was dependent, of course, on the flow of orders, but there was a continuing business in that territory?

A. Yes, we have business in that territory.

Mr. Howland: That is all.

Exam. Carpenter: Cross examine.

[fol. 1747] Cross examination.

By Mr. Bradshaw:

Q. Mr. Brody, do you know the name of the carrier that is handling those Nebraska shipments right now?

A. I think it is the Watsons.

Mr. Bradshaw: That is all.

Mr. Howland: That is all. Thank you, Mr. Brody.

Exam. Carpenter: You will be excused, Mr. Broday.

(Witness excused:)

Mr. Nolan: Mr. Griffith, please.

R. M. GRIFFITH was sworn and testified as follows:

Direct examination.

By Mr. Nolan:

Q. Give us your name, place of residence and occupation, please.

A. R. M. Griffith. I work for Luthe Hardware Company; the address is 1450 East Aurora, Des Moines.

Q. What is your position with the company, Mr. Griffith?

A. Traffic Manager.

Q. How long have you been associated with the company?

A. For 24 years.

Q. I understand the Luthe Hardware Company is a wholesale dealer in hardware and allied supplies. Is that correct?

A. Yes, sir.

Q. It is one of the oldest establishments here in Des Moines, isn't it?

[fol. 1748] A. Yes, sir.

Q. I believe your company serves throughout the State of Iowa and the midwest here supplying local dealers. Is that true?

A. Outbound to most of the State of Iowa, not all.

Q. Where is your source of supply of the most of your incoming shipments?

A. Well, Chicago and east mostly.

Q. How do those shipments come in?

A. Carload quantities, truckload quantities. On small shipments it counts up to truck and carload.

Q. Are you acquainted with the operations of the Rock Island Motor Transit Company both local and interstate?

A. Yes, sir.

Q. Has your company been using the services of the Rock Island Motor Transit Company since it started in business about 13 years ago?

A. Yes, sir.

Q. What has been the quality of the service of the Rock Island Motor Transit to your company?

A. Satisfactory.

Q. On your inbound service have you been using the Rock Island Motor Transit Company?

A. Yes, sir.

Q. Are you acquainted with the fact there is a maximum limitation of 5,000 pounds per shipment imposed on the [fol. 1749] operations of the Rock Island Motor Transit Company?

A. Yes, sir.

Q. And that such limitation has existed since last fall?

A. Right.

Q. Has that caused you to make any change in your method of transportation of your inbound shipments?

A. Well, where we used their service prior to that time, we found other means of getting it in.

Q. I will ask you if the service formerly rendered by the Rock Island Motor Transit Company was of the same quality or of a higher quality than the service you have since been getting?

A. Their service was satisfactory.

Q. Did you have any difficulty getting any placement of service in excess of 5,000 pounds per shipment?

A. No. There is such service available.

Q. What is your primary interest in this proceeding, Mr. Griffith?

A. Our primary interest is to be able to use the Rock Island Motor Transit Company on inbound shipments, and we feel we should patronize them because we depend on outbound service on our distribution in the state. We feel if they are curtailed in their interstate operation it would result in a curtailment in their outbound service.

Q. Now, on occasion do you have so-called direct shipments from factory to your dealers out in the state?

A. Yes, sir.

[fol. 1750] Q. That would be where you get an order at your place here in Des Moines and you can't fill it and you would have it sent out from the factory.

A. Maybe we could fill it here, but it would be more advantageous to ship it direct.

Q. Do you have dealers all along Highway 6 in Iowa whe-ver there is a hardware store?

A. Yes, sir.

Q. In the small towns as well as in the large towns?

A. Right.

Q. Do you go as far east as West Liberty, Iowa?

A. We have accounts in Rock Island, Davenport and, I believe, in East Moline.

Q. Has it ever occurred where you had a shipment direct from Chicago to Davenport rather than shipping it into Des Moines and back?

A. That could be, yes, sir.

Q. Has the Rock Island Motor Transit Company handled those so-called direct shipments for you in the past?

A. I think so, yes, sir.

Q. Have you had any direct shipments to small points like West Liberty or Marengo?

A. I couldn't give specific instances, but I know in the past we have had shipments direct from the factories to points along Highway 6.

[fol. 1751] Q. Have those shipments been handled by the Rock Island Motor Transit Company?

A. Yes, sir.

Q. Do you want to retain, if possible, the complete service of the Rock Island Motor Transit Company?

A. Yes, sir.

Q. As you had it before there were any restrictions or limitations on its operations?

A. Yes, sir.

Mr. Nolan: You may cross examine.

Exam. Carpenter: Cross examine.

Cross examination.

By Mr. Bradshaw:

Q. As I understand your testimony, Mr. Griffith, your main reason for wanting to retain the service of the Rock Island Motor Transit is to take advantage of their intrastate service. Is that correct?

A. That is important to us, yes, sir.

Mr. Bradshaw: I believe that is all.

Redirect examination.

By Mr. Nolan:

Q. Following along with what Mr. Bradshaw said about Rock Island Motor Transit intrastate service, are there many points serviced by any other carriers out of Des Moines?

A. I would say so, yes, sir.

Mr. Nolan: That is all.

Mr. Bradshaw: No further questions.

[fol. 1752] Exam. Carpenter: That is all. You are excused.

(Witness excused.)

Mr. Howland: Mr. Hansen, please.

Carl A. Hansen was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, please?

A. Carl A. Hansen.

Q. Do you live here in the City of Des Moines, Mr. Hansen?

A. I do.

Q. Your present occupation is what?

A. Traffic Manager of the Des Moines Chamber of Commerce.

Q. How long have you occupied that position?

A. Approximately 14 years.

Q. What was your occupation prior to that time?

A. I was in the rate department of the Iowa State Commerce Commission for a period of 17 years.

Q. I take it, then, in your employment with the rate department of the Iowa State Commerce Commission, you came in contact with traffic and rate matters?

A. Yes, sir.

Q. So, for the past 31 years, you have been interested

in and directly connected with transportation matters in the Iowa territory and in the City of Des Moines?

A. That is correct.

[fol. 1753] Q. The City of Des Moines has a population of approximately 180,000 according to the 1950 census. Is that right?

A. Something in excess of that; I think around 186,000.

By Mr. Nolan:

Q. That is the Chamber of Commerce figure, isn't it?

A. No; that is official.

By Mr. Howland:

Q. Mr. Hansen, what type and character of business in industries are located in the City of Des Moines?

A. Oh, there are various types; manufacturers and wholesalers.

Q. What is the membership of your Chamber of Commerce? How many concerns?

A. I think it is approximately 600 concerns interested in shipping.

Q. Do those range from light and heavy manufacturing industries down to wholesalers of practically all types and character?

A. That is correct.

Q. In general, where is the trade territory in which the Des Moines wholesalers do business?

A. Well, the wholesalers do business in the State of Iowa and some in the immediate surrounding states.

Q. And do the manufacturers generally do business in a somewhat larger area?

A. Throughout the country oftentimes.

Q. Now, I will ask you, Mr. Hanson, whether there are concerns here in Des Moines that utilize the services of the traffic department or traffic bureau of the Chamber of [fol. 1754] Commerce with respect to the routing of shipments, rates and service which is available?

A. Yes.

Q. And I take it you are generally familiar with the transportation service and the service problems of these concerns?

A. I am.

Q. In what way are the concerns that are located here and doing business in Des Moines affected by interstate transportation which is available to the City of Des Moines?

A. I don't believe I get your question.

Q. Well, I will ask it this way: Are the wholesalers and manufacturers who are members of your organization interested or do they have any interest in the present application?

A. Yes, sir.

Q. Why is that true?

A. Well, it is a daily proposition, I know, with our members throughout the city who make direct shipments from Chicago and other interstate points to small towns along Highway 6 of Iowa.

Q. Is the making of those direct shipments from Chicago and eastern points a matter of almost daily occurrence?

A. Yes.

Q. Now, you are familiar with both rail and truck transportation, are you not?

A. Quite generally.

Q. What have you observed with respect to the trans- [fol. 1755] portation service that is available to communities in the state of Iowa in this general territory which are located intermediate between the larger centers of transportation? I have in mind places like Victor, Ladora and Brooklyn and communities of that character.

A. I know numerous carriers have interstate rights to serve those points, but I know of none who are serving on the smaller shipments except the Rock Island Motor Transit.

Q. What has been the general policy of the motor common carriers with respect to service to these smaller intermediate communities of the type and character I have referred to? Are they increasing that service or restricting it?

A. Well, I don't know about the recent situation but I haven't heard of any increase in that type of service. The fact of the matter is the trend seems to be, on the part of our motor carriers, to do away with peddle service and operate from terminal to terminal.

Q. Is this peddle service, which is being rendered by the Rock Island Motor Traffic Company, for the handling of both intra and interstate shipments, a matter of concern to the shippers and receivers of freight who are members of your bureau here in Des Moines?

A. It is.

Q. I believe you said you knew of no concern that was rendering any peddler service to these small intermediate communities on U. S. Highway 6 other then the Rock Island Motor Transit Company.

[fol. 1756] A. Well, not generally across there. There may be a few exceptions to that statement, but generally that is true.

Q. Are you familiar with the fact that the Rock Island Motor Transit Company since the month of August 1951 has been operating under certain maximum weight restrictions?

A. Yes, sir.

Q. In your opinion do those maximum weight restrictions affect in any manner the ability of the Rock Island Motor Transit Company to render a full and complete service to communities that it serves including the City of Des Moines?

A. Well, that would seem obvious inasmuch as I know of no such restrictions imposed on any other carriers I have run into.

Q. Are there concerns in the City of Des Moines using transportation service by motor truck who have occasion to make shipments to points both east and west of the boundaries of the State of Iowa in truckload quantities or in volume quantities in excess of 5,000 pounds?

A. Oh, yes.

Q. You are familiar also with the situation of the intrastate transportation service available on U. S. Highway 6 across the State of Iowa, are you not?

A. I am.

Q. In the event the Rock Island Motor Transit Company is compelled to abandon interstate service or to eliminate the interstate service, in your opinion would that affect [fol. 1757] the quality of the service that would be available

for intrastate transportation in this territory covered by this application?

A. Well, it obviously would because Des Moines is an interchange point for considerable traffic and the volume, of course, tendered to the carrier makes the service and, of course, obviously, if it was just local shipments out of Des Moines, it would no doubt impair the distribution service.

Q. In other words, your opinion is that a carrier could not maintain complete intrastate transportation service to the same degree as though it had both intrastate and interstate volume available?

A. The lesser tonnage available, of course you couldn't expect the same service and distribution.

Mr. Howland: That is right. I think you may cross examine.

Exam. Carpenter: Cross examine.

Mr. Bradshaw: No cross examination.

Exam. Carpenter: All right. That is all.

(Witness excused.)

Mr. Howland. Mr. Rasmussen, please.

ORMO RASMUSSEN was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Your name is Ormo Rasmussen?

A. That is right.

Q. I believe you live at Brayton, Iowa, do you not?

[fol. 1758] A. Yes, sir.

Q. Brayton is located where?

A. It is 14 miles north of Atlantic, Iowa.

Q. You are located on what highway?

A. Highway 71.

Q. You are on the highway between Audubon and Atlantic, Iowa, are you not?

A. That is right.

Q. In what business are you engaged at Brayton?

A. Retail lumber business.

Q. Are you the owner of a retail lumber business there?

A. Partly. My father and I have the retail lumber yard there.

Q. Are you interested in any business located at any other point?

A. No, we are not.

Q. Just the one yard?

A. That is right.

Q. About what is the population of Brayton?

A. About 250 people.

Q. It is located on the branch line of the Rock Island Railroad which extends between Atlantic and Audubon, Iowa?

A. That is right.

Q. What business establishments are located in Brayton?

A. Well, we have a grocery store, we have a garage, we have two filling stations and two beer joints. That is about it.

[fol. 1759] Q. Mr. Rasmussen, what truck transportation service do you have at Brayton?

A. Rock Island Motor Transit.

Q. Is there any other regular service to the town?

A. There is not.

Q. Except that of the Rock Island Motor Transit Company?

A. That is all.

Q. Do you have occasion to get in shipments for your business from points outside of the State of Iowa on occasion?

A. Yes, we do.

Q. And those generally come from what general territory?

A. We get quite a bit of our stuff from Omaha; we get some stuff from Rock Island, Illinois, some from Chicago and some from Michigan.

Q. What general lines of merchandise do you handle?

A. Well, we have a retail lumber yard and we handle fence, barbed wire, steel pieces, millwork and general hardware.

Q. How has the service of the Rock Island Motor Transit Company to your place of business been?

A. It has been exceptionally good; we get overnight service. We can call in for stuff from either Omaha or Des Moines and they have it out there the next day.

Q. Is that a daily or daily-except-Saturday service?

A. That is right; it is daily.

Q. Six days a week?

[fol. 1760] A. Six days a week.

Q. Mr. Rasmussen, would the elimination of this Rock Island Motor Transit service from interstate points such as Omaha or Rock Island or Chicago, St. Louis or the other points from which you have connecting line service, affect your business there?

A. You mean the discontinuation of it?

Q. Yes, or the substantial reduction of it so it was cut down to, say, twice a week or something like that. Would that affect your business?

A. That would handicap us.

Q. In what respect?

A. We would have to wait longer for our merchandise.

Q. I take it you are in competition with dealers in similar lines of merchandise both at Audubon and Atlantic and other nearby towns?

A. Yes, sir.

Q. Do you have any other service you could get to replace that of the Rock Island Motor Transit?

A. There is none.

Q. There is no other service there?

A. That is right.

Mr. Howland: You may cross examine.

Exam. Carpenter: Cross examine.

Mr. Bradshaw: No cross examination.

Exam. Carpenter: You may be excused.

(Witness excused.)

[fol. 1761] Mr. Howland: Mr. Wheatley, please.

V. O. WHEATLEY was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Your name is V. O. Wheatley?
A. That is right.
Q. You live, I believe, at Marne, Iowa?
A. That is right.
Q. What is your business?
A. I am in the general merchandise business.
Q. How long have you been engaged in business at Marne?
A. Well, the business has been there about 60 years. I have been there only about 3 years.
Q. Prior to that time was it conducted by other members of your family?
A. By my father, yes.
Q. Where is Marne located?
A. On the Rock Island 6 miles west of Atlantic.
Q. About what size community in population is it?
A. Well, the town or community?
Q. The town itself.
A. There are about 350 people there.
Q. What business establishments are located there?
A. We have an elevator and a couple of filling stations, a garage and a sort of semi-implement place.
[fol. 1762] Q. Now, Marne is on that part of the line of the Rock Island Railroad that the Interstate Commerce Commission has authorized to be abandoned, I believe. Is that correct?
A. That is right.
Q. And there is some construction at the present time going on for a new line of railroad that will be located some miles south of the town of Marne, isn't there?
A. That is right.
Q. And when that line is completed and the present route through Marne is abandoned, then you will be off of the railroad and the nearest point will be Atlantic, Iowa. Is that right?
A. That is right.

Q. Have you been getting in some of your merchandise from points outside of the State of Iowa?

A. Yes, we get quite a bit from outside of the state.

Q. What general lines of merchandise has that been true of?

A. Drygoods, feeds. You see, our general merchandise consists of quite a few things. We buy feeds and clothing and drygoods mostly, and we handle some groceries; we have a full line of groceries.

Q. With respect to those grocery lines, some of your suppliers maintain a delivery service, do they not?

A. That is right.

Q. Are there any Omaha concerns that have a delivery service out there?

[fol. 1763] A. No.

Q. But you do have delivery service out there from Des Moines, do you not?

A. That is right.

Q. How have you been getting in your shipments other than the ones delivered to you by the Grocers Wholesale Co-op?

A. By motor freight only.

Q. What company is it that has been serving Marne?

A. Well, the Rock Island.

Q. Do you have any other regular motor truck service via common carrier truck into Marne?

A. Well, Iowa-Nebraska comes in there.

Q. Is that a regular daily service?

A. I wouldn't know. I would not say for sure whether it is or not.

Q. Does the Rock Island Motor Transit maintain a regular daily service there?

A. Yes, they come in daily.

Q. How has the service of the Rock Island Motor Transit been, generally, as to being satisfactory or otherwise?

A. It has been good.

Q. And with the prospect of the removal of the rail line from Marne, is there a need for the continuation of the Rock Island Motor Transit service to the town of Marne?

A. Yes, we need it.

[fol. 1764] Q. What effect would it have on your business

if that service were eliminated entirely or substantially reduced down to, say, a twice-a-week basis?

A. Well, we would have to buy stuff more often. We used to buy carloads of stuff; now we buy it from day to day. We like to get our merchandise in as quick as possible because we don't like to hold over and buy in larger quantities.

Q. Do you ordinarily have any occasion to make shipments of more than 5,000 pounds inbound?

A. By motor freight?

Q. Yes.

A. No. It has been coming by rail.

Q. When the rail service is discontinued in this town will you still ask for those volume shipments coming in?

A. Well, yes. I don't know how we are going to work it. I haven't given it a thought yet as to how we will do it.

Q. But you will require that transportation service after the railroad is abandoned there?

A. Yes.

Q. Do you know of any other service you could get to replace the service of the Rock Island Motor Transit Company?

A. No. Of course, we have more or less relied on the Rock Island Motor Transit.

Q. For your smaller shipments?

A. Yes.

[fol. 1765] Mr. Howland: I think you may cross examine.

Exam. Carpenter: Cross examine.

Cross examination.

By Mr. Bradshaw:

Q. Where does your feed come from?

A. Our feed is from Gooch out of Lincoln, Nebraska, and then we get oyster shell shipped in from New Orleans.

Q. Does your oyster shell come in in over 5,000 pound shipments?

A. Yes.

Q. Does that come through Des Moines?

A. No, it don't come out of Des Moines.

Q. I mean, does it come through Des Moines?

A. I am not sure.

Q. You don't know the routing on that?

A. No, I don't.

Q. Is the Iowa-Nebraska the only other carrier, you know of, that comes in there?

A. Yes.

Mr. Bradshaw: That is all.

Exam. Carpenter: Redirect.

Mr. Howland: Nothing further.

Exam. Carpenter: That is all. You will be excused.

(Witness excused.)

Exam. Carpenter: We will have a short recess.

(Recess.)

Exam. Carpenter: You may proceed.

[fol. 1766] Mr. Howland: Mr. Blumer, please.

LEONARD H. BLUMER was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you give your name to the reporter, please?

A. Leonard H. Blumer.

Q. Where do you live, Mr. Blumer?

A. I live at 114 South 38th Avenue, Omaha, Nebraska. I am with the Rock Island Motor Transit Company, Commercial Agent.

Q. As I understand it, you live in Omaha, Nebraska.

A. That is right, sir.

Q. And you are presently the Commercial Agent for the Rock Island Motor Transit Company at Omaha?

A. That is right.

Q. How long have you worked for the Rock Island Motor Transit Company?

A. Well, it will be 14 years next month.

Q. I take it, then, that you went to work for the Rock Island Motor Transit Company about the time it took over the White Line?

A. Yes. I was with the White Line at the time the Rock Island took it over.

Q. Where were you located then?

A. At Omaha.

Q. At what points have you worked for the Rock Island [fol. 1767] Motor Transit Company and the predecessor company, the White Line, and in what capacities?

A. I started out in January of 1936 with the White Line as a helper, and I was a driver at the time of the purchase by the Rock Island Motor Transit. After that I drove a truck until I became foreman, of course this is all in Omaha. I was foreman for about [illegible] years. Then they transferred me to Muscatine, Iowa. June 1944 as terminal agent. I worked there until March 1, 1945. Then I was transferred back to Omaha, and operated the terminal there from March 1, 1946 until October 31 of the same year I was transferred from there to Ottumwa, Iowa, and operated a terminal there until June of 1946.

Then I asked for a transfer back to Omaha and they put me on the rate and dispatching job and I was on that from June of 1946 until January 15th of this year.

Q. And you have been Commercial Agent since January 15th, 1952, down to the present time?

A. That is right.

Q. As commercial agent, what does your job involve?

A. Well, I have charge of sales and solicitation within the City of Omaha and the western part of Iowa.

Q. Does the Rock Island Motor Transit Company have a regular terminal in Omaha?

A. Yes, sir.

Q. Where is it located?

[fol. 1768] A. It is adjoining the railroad freight house there.

Q. Is it in a portion of the Rock Island freight house?

A. Yes; we have the south half.

Q. About how many feet of dock space, or how many doors as they sometimes refer to it?

A. Well, in the original Motor Transit terminal there are eight doors and on the other part that has been closed in since it was originally set up there are four doors, so there are 12 doors on the west side; on the east side, of

course, there is trackage; there were four doors but there is only three now.

Q. What does the Rock Island Motor Transit have in the way of pickup and delivery trucks in Omaha?

A. Well, it has four Chevrolet cab-over trucks with 15 foot beds that work in the city. Then, there are five K International straight jobs; then we have what they call shuttle trailers, a 15-foot job, which we use for handling connecting rail line freight; then there is extra road-unit equipment we use for picking up large shipments.

Q. You referred to some units you use in connection with rail freight. What do you mean by that?

A. That is freight that goes to the different lines like the I. C., North Western, Milwaukee, Burlington, Union Pacific.

Q. Does the Rock Island Motor Transit perform a pickup and delivery service on freight shipments for the railroad in Omaha?

A. Yes.

[fol. 1769] Q. And this transfer service involves the handling of freight from one freight house to the other?

A. That is right. Of course, we just deliver the rail freight. We don't pick up any connecting line freight; they deliver that themselves.

Q. What do you have in the way of personnel of the Rock Island Motor Transit Company at Omaha?

A. At the present time there are about 12 men working the city on pickup and delivery service; there are three employees in the office and the agent and myself. That is not counting the road drivers.

Q. Does that include your dock men?

A. Yes.

Q. And the pickup drivers?

A. That is right.

Q. There are about 12 of them, you say?

A. Right at the present time. We have had as high as 24.

Q. There has been a reduction in that personnel in the past 6 months, of course?

A. Very much so.

Q. Were you familiar with the number of trucks dis-

patched out of Omaha prior to the month of August 1951 or that passed through Omaha on regular runs?

A. Yes. Prior to this restriction we were loading out for Des Moines about three trailerloads a night; it varied from two to three. Then, we had an east peddle run which [fol. 1770] peddled all points from Omaha on Highway 6 up to Des Moines.

Q. Is that the run where the semitrailers were exchanged at Anita?

A. That is right. At that time we used to run them clear through, one each way, but they changed that and now run it to Anita and change trailers and each driver goes back to his terminal.

Q. Did you say there were usually three trucks dispatched to Des Moines each night?

A. Yes, as a general rule there were three; there were never less than two. Then, of course, they had the east peddler; and they had the truck going up 64 Highway that took care of Harlan and all those points on 64. The east peddler took care of towns like Treynor, Carson, Griswold and Lewis on Highway 100.

Q. How did that peddle run get to Harlan?

A. Well, I think at that particular time he was running to Oakland, over to Hancock, up to Avoca, to Harlan, down to Corley, Shelby, Neola, Minden, Underwood, Weston and back into Council Bluffs.

Q. Was that the run that served Walnut and Marne, or was that some other run?

A. Yes, I believe he did have Walnut and Marne on there at that time too.

Q. And then he went on into Atlantic?

A. That is right.

[fol. 1771] Q. Now, at that time was there also a regularly established run to the Tri-Cities?

A. Yes. Before the war we had an overnight service from Omaha to the Tri-Cities.

Q. Well, I am referring particularly to the service you had in, say, June and July of 1951. Did you have a truck dispatched from Omaha to the Tri-Cities area?

A. No. At that time we had a truck loaded with nothing but Tri-Cities freight, however it was relayed through

Des Moines; they would have to change drivers and take it on in from there. Of course, prior to the war we had a through run Omaha to Rock Island, one each way each night.

Q. That is, the service was set up where the truck applied exclusively between Omaha and Rock Island eastbound and between Rock Island and Omaha westbound?

A. That is right.

Q. And later that business was handled by one of these units you referred to as the three Des Moines units?

A. That is right.

Q. And that was the situation that existed in June and July 1951?

A. Well, I said at that time there were two and three trucks at night. There were times when we had as high as six trucks out at night to Des Moines. We were always sure of not less than two to three trucks every night going east.

Q. You also handled eastbound business from Omaha to [fol. 1772] Chicago as well as westbound business Chicago to Omaha?

A. That is right, sir.

Q. Now, I take it you are also familiar with the service that has been performed there since August 1951 when the changes in the authority became effective?

A. Yes, sir.

Q. Did you also have a run prior to July or August of 1951 that operated on a daily basis through Omaha from Des Moines to Lincoln?

A. You mean prior to that date?

Q. Yes.

A. Yes.

Q. What service was that? Tell us how that operated?

A. Well, that particular run didn't come into the terminal at Omaha. It was a through run from Des Moines to Lincoln.

Q. That didn't have Omaha freight on it?

A. No.

Q. It was freight for Lincoln and points west?

A. That is right.

Q. And that operated through Omaha but did not change

drivers at the terminal and was not dispatched from the Omaha terminal?

A. That is right.

Q. Under the present operations was that Des Moines-Lincoln run eliminated?

A. Yes.

[fol. 1773] Q. What service is being currently performed from Omaha east, and how is it being handled?

A. To any particular points?

Q. Well, first, Omaha to Atlantic, and then Omaha to Des Moines.

A. Well, the Omaha-to-Atlantic freight is being handled on the back end of our Des Moines unit.

Q. How many units do you run out of Omaha to Des Moines?

A. Normally it has only been one a day.

Q. That leaves in the evening?

A. That is right.

Q. And that single truck handles both the Atlantic proper freight and the Audubon freight and the Des Moines freight? Is that right?

A. That is right.

Q. How is your peddler service presently handled out of Omaha?

A. Well that is handled on another one of those Chevrolet straight jobs. We used to have a trailer to handle it, but now that is being handled on a 16-foot van body.

Q. And that is an enclosed truck?

A. Yes.

Q. How does it operate? Tell us about that run out of Omaha.

A. Well, at the present time that is operating down through Lewis, Treynor and Carson, then he goes over to Oakland and up to Hancock, then to Avoca, then back down to those other towns on 64 Highway.

[fol. 1774] Q. Do you mean Highway 64 or Highway 83?

A. Highway 64. You have Shelby and Neola and Minden and Underwood and Weston.

Q. How do you serve Marne and Walnut presently out of Omaha.

A. That is loaded to Atlantic and they run that out from Atlantic.

Q. You mean the truck handles from Atlantic out to Walnut and Marne?

A. And then over to Harlan.

Q. Does this Chevrolet truck you refer to go into Harlan?

A. The one out of Omaha?

Q. Yes.

A. No; that goes up to Avoca.

Q. And then returns to Omaha over U. S. 64?

A. That is right.

Q. And any Harlan freight out of Omaha is handled how?

A. Well, that is loaded into Atlantic, put in with your Atlantic peddle off of the Des Moines truck. That is unloaded at Atlantic on to a peddle truck out the next morning.

Q. And that truck comes out on Iowa Highway 83 over to Marne, Walnut and Avoca and then north to Harlan?

A. That is right.

Q. Are you familiar with the way in which any shipments originating out of the Tri-Cities or points east of the Tri-Cities destined to Omaha or beyond are now handled? [fol. 1775] A. Well, shipments out of the Tri-Cities or east come under the restricted rights into Omaha.

Q. You mean the key-point restriction between the Tri-Cities and Omaha?

A. I don't know whether it is the key-point restriction or the restriction the Interstate Commerce Commission put on us; I don't know which.

Q. Well, as a matter of fact, I think the Interstate Commerce Commission was responsible for the key-point restriction, but the restriction you refer to is the one that prevents the handling of shipments from the Tri-Cities area into Omaha or beyond. Is that what you refer to?

A. Well, you know, before we used to haul freight into there, see, when we had key-point restrictions. We have had key-point restrictions since we have been in business.

Q. Not from Omaha to the Tri-Cities subsequent to August 1951.

A. I know, after we were restricted, there was a bulletin issued that we were restricted through or out of any one of the said points, which named Omaha and the Tri-Cities.

Q. What I want to get at, Mr. Blume, since the restriction was put on which prohibits the Rock Island Motor Transit Company from handling freight picked up at the Tri-Cities or originate east of the Tri-Cities into Omaha or beyond Omaha, how do you handle that business from Des Moines?

A. Well, if it is out of the Tri-Cities or east thereof it [fol. 1776] will have to be interlined out of Des Moines into Omaha or on to destination whichever the case may be.

Q. So you don't have any shipments now picked up originating at the Tri-Cities and handled for delivery at Omaha proper?

A. No, we can't deliver it in Omaha.

Q. Nor can you make a shipment from Omaha proper destined to the Tri-Cities area?

A. No, not without using a connection.

Q. And that interchange is made at Des Moines?

A. That is right. It also is true with Clinton.

Q. Because that has to go through the Tri-Cities?

A. That is right.

Q. How have you been handling shipments moving from Omaha to Clinton?

A. Well, we have been sending them into Des Moines and interlining from Des Moines.

Q. Interchange at Des Moines with connecting carrier for delivery at Clinton? Is that the fact?

A. Yes.

Q. The Rock Island Motor Transit Company has authority to serve Clinton itself?

A. That is right.

Q. Now, we have been talking about trucks dispatched from Omaha east. Do you also dispatch some trucks from Omaha west?

A. Yes.

[fol. 1777] Q. To Lincoln and beyond?

A. Yes.

Q. Are you familiar with the operating authority of the

Rock Island Motor Transit out in that west territory, out beyond Belleville, Kansas?

A. Well, I know how they operate it, yes.

Q. Well, you know they do operate into that territory?

A. Yes, sir.

Q. How is it handled from Omaha?

A. Well, we load two trucks going west each night.

Q. Out of Omaha?

A. Out of Omaha going west; and there are two loaded coming back from Belleville. Those are destined to Belleville, Kansas, out of Omaha. They have a trailer that stops at Lincoln, Beatrice, Fairbury, and then into Belleville. Then, we have a straight job which——

Q. You mean a straight truck?

A. A straight truck, yes. It starts out at Omaha and goes to Albright, a suburb of South Omaha, then to Richfield, there is a little town in between there but he goes to Richfield, then down to Louisville, from Louisville to South Bend, from South Bend he goes to Murdock, from Murdock, to Alvo, from Alvo to Prairie Home, from Prairie Home to University Place, which is a suburb of Lincoln, then down into Lincoln proper.

Then beyond Lincoln you have Howell, then Martel, from [fol. 1778] Martel to Clatonia, Clatonia to De Witt, from De Witt to Beatrice, Beatrice to Plymouth, Plymouth to Harbine, from Harbine to Ellis, Ellis to Jansen, Jansen to Fairbury, from Fairbury to Ruskin, Ruskin to Deshler, from Deshler to Hebron, and from thereon into Belleville.

Q. Well, that run handles both intrastate and interstate freight out of Omaha to those points west and south of Omaha that you have named, does it not?

A. They are not all interstate, no.

Q. Well, I say you handle both interstate and intrastate traffic.

A. On the whole run, yes.

Q. And you have authority to handle those shipments?

A. That is right.

Q. Now, if you had a shipment out of Chicago destined to Lincoln, Nebraska, under the present setup and with the present restrictions you could not pass through the Tri-Cities and Omaha. Is that correct?

A. No.

Q. They could not?

A. No, they could not.

Q. And that necessitates the interlining therefore at Des Moines?

A. That is right.

Q. So, if a shipment is picked up on either motor carrier or rail billing at Chicago destined to Lincoln, you could not handle it on the Motor Transit runs?

[fol. 1779] A. No, sir.

Q. Now, we have been talking about westbound service out of Omaha to Beatrice and the Nebraska points. How would a shipment from Beatrice, Nebraska into western Iowa be handled under your present schedules?

A. From Beatrice to western Iowa?

Q: Yes.

A. Well, we could handle that direct. Of course, we would have the restriction of 5,000 pounds per shipment.

Q. I understand; but what would be the physical movement of that shipment?

A. Well, the shipment would be picked up on the Belleville truck coming into Omaha and we would load it to whatever the point of destination is out of Omaha.

Q. On which truck it would be loaded would depend on the destination, whether destined to Atlantic or east of Atlantic or some point west of Atlantic?

A. That is right.

Q. Is there a movement of traffic from that eastern and south-eastern territory, such as Fairbury and Beatrice and Lincoln to western Iowa points?

A. Yes. Of course, there isn't now, but we used to haul a lot of pumps, we used to haul truckloads of pumps out of Fairbury and also out of Dempster Mill at Beatrice; we used to haul a lot of castings out of Kensington, Kansas.

[fol. 1780] Q. Of course, the restriction of 5,000 pounds applies only with respect to the territory in the original White Line authority, and Fredericks; you understand that?

A. Yes, sir.

Q. That is from Omaha to the Tri-Cities and out to that territory around Harlan.

A. I think that would still apply to a point out there that is not restricted, which would not give you any leeway anyhow.

Q. That is right. Were you familiar with that operation while you were stationed at Omaha as terminal agent there for a while and also while you were doing billing and matters of that sort?

A. You mean as to this restriction?

Q. No. As to this operation you told us about out into Iowa from Nebraska.

A. Yes, sir.

Q. You do have traffic moving from that Beatrice, Lincoln, Fairbury area of less than 5,000 pounds per shipment into western Iowa on occasion, I take it?

A. Yes.

Q. Mr. Blumer, you told us about the fact there are two trucks dispatched west out of Omaha, one that makes these intermediate points and the other that goes direct to Belleville. Are there also two trucks from that area coming back into Omaha?

A. There is a trailer and a 16-foot straight truck that go back and forth each night. In other words, they meet, they alternate.

[fol. 1781] Q. Well, there are two trucks that go out and two trucks come back?

A. That is right.

Q. I don't believe we have had anyone testify in this record about the character of the industries at Omaha although Mr. Hartnett was on the witness stand. Will you tell us something about the character of the business establishments there in Omaha as to the types and kinds of businesses there are?

A. Well, there are a number of different businesses in Omaha. There is the Grant Battery Company that manufactures batteries; there is the National Lead Company that makes lead dust and shot; the National Lead also make the regular ingots and different lead materials, whatever it might be.

There are the biscuit companies, the Sunshine Biscuit Company, the Merchants Biscuit Company, the Independent Biscuit Company; Schuze-Birch Biscuit Company

have taken over the Independent Biscuit Company. The Socony Vacuum Oil Company has their plant out on the river where they get oil on the barges and ship out to all their stations throughout the country.

There are a number of distribution companies, not so much in the manufacturing end of it.

Q. Well, Omaha is a very large wholesale distribution center, is it not?

A. That is right.

Q. In all lines of merchandise, drygoods, floor coverings and groceries?

[fol. 1782] A. That is right. It has exceptionally, I think, big packing houses which manufacture packing-house products.

Q. Are there any other general lines they handle there?

A. Well, there is the Bemis Brothers Bag Company, the Frontier Bag Company. They have practically all the different agricultural manufacturing companies that have distribution of implements out of Omaha.

Q. Does that include practically all the farm implement houses such as International Harvester, John Deere Company, J. I. Case and Allis-Chalmers?

A. Yes. And then they have the auto parts places such as General Motors; of course, that is just a distribution; they have the Ford Storage, Central Storage, the Beacon Van Storage.

Q. You are familiar with what is known as pool car distribution, aren't you?

A. Yes.

Q. Is Omaha a center from which pool car shipments are made?

A. Well, not too much. They do have some cars that come in there that are handled by different local concerns; I don't know of any companies that do too much of that.

Mr. Howland: I think you may cross examine.

Exam. Carpenter: Cross examine.

Cross examination.

By Mr. Bradshaw:

Q. Among the businesses that you have in Omaha, do [fol. 1783] you have some other trucking business there other than the Rock Island Motor Transit Company?

A. Oh, yes.

Q. Could you give us some idea of the extent of that?

A. Well, of course, that runs into quite a thing. We have a number of carriers. A lot of them, of course, are local carriers. In other words, they probably operate out of one particular point. There may be some of them have a half a dozen points they serve.

As far as the big lines are concerned we have quite a few of them.

Q. What are the big-line terminals there?

A. Well, there is Watson Brothers, Union Freightways, On Time, Red Ball, Merchants, Prucka; I imagine that is what you would call the big lines.

Q. And there are a lot of smaller lines you can't think of?

A. Oh, yes, there are quite a lot of smaller lines.

Q. Do you have any lines there among these smaller lines, that you know of, that operate out of Omaha and into some of these towns along Highway 6 in the western part of Iowa and also along the branch lines of the Rock Island Railroad in western Iowa?

A. Of course, we do have competition from Iowa-Nebraska in territories up on 64 and there are some on Highway 6.

Q. Does Iowa-Nebraska have a terminal in Omaha?

A. No, they do not have a terminal of their own; they [fol. 1784] lease a part of the terminal of Neylon Brothers.

Q. I believe you mentioned, when these restrictions went on a few months ago, you lost some business from Clinton to Omaha. Is that right?

A. I would say we would not be able to handle it.

Q. Were you handling it before?

A. Yes, sir.

Q. Who got that business?

A. That I don't know.

Q. Do you know how that business is being handled?

A. Well, I am quite sure we handle quite a bit of merchandise out of Clinton, Iowa, going west. We don't know what shipments they do have because we never get to see the merchandise.

Q. There isn't so much competition on your western movement out of Omaha, is there?

A. No. We don't really have too much competition anywhere; as far as I can see——

Q. Well, on this truck——

Mr. Howland: Wait a minute. Let the witness finish his answer, please.

A. Of course, if you want to run into competition there are a number of lines.

By Mr. Bradshaw:

Q. To shorten this, you are pretty familiar with what operators are out there that you are competing with?

A. Yes, sir.

[fol. 1785] Q. Can you tell us what line or lines handle the truckload shipments out of Fairbury you claim to have lost?

A. I think the biggest majority of it went to the Fairbury Motor, which originally was a Canning line.

Q. And they operate where?

A. From Fairbury to Omaha. As a matter of fact, Beatrice Motor Freight bought them out. Canning went bankrupt.

Q. Are there some truckload shipments out of Beatrice?

A. Yes.

Q. Who is handling those?

A. Beatrice Motor Freight.

Q. Isn't that the same as the Fairbury Motor Freight?

A. That is right. They operate as the Peatrice-Fairbury Motor Freight. The Fairbury Motor Freight is, of course, still in the hands of a receiver, and until they get it settled they may operate it as the Beatrice-Fairbury Motor Freight.

Q. Anyway, the respective carriers under both headings come into Omaha from western Nebraska.

A. That is right. The trustee of that particular deal is a Fairbury Motor Freight man.

Mr. Bradshaw: I believe that is all.

Exam. Carpenter: Redirect.

Mr. Howland: That is all.

Exam. Carpenter: That is all. You will be excused.

(Witness excused.)

[fol. 1786] Mr. Howland: Mr. Tiedemann, please.

VIRGIL A. TIEDEMANN was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Your name is Virgil A. Tiedemann?

A. That is right.

Q. And you are the Rock Island Motor Transit agent in the City of Des Moines?

A. That is correct.

Q. How long have you worked for the Rock Island Motor Transit Company?

A. Since 1938.

Q. And did you work for the White Line?

A. Yes; I started for the White Line in 1936.

Q. In what capacities have you worked for the Rock Island Motor Transit Company?

A. Truck driver, dock foreman, driver supervisor and terminal agent.

Q. At what points have you worked for the Rock Island Motor Transit Company?

A. Principally in Des Moines but, as truck supervisor, I have travelled.

Q. You are familiar, of course, with the regularly assigned runs that are dispatched from the Des Moines terminal of the Rock Island Motor Transit Company?

[fol. 1787] A. Yes, sir.

Q. First, I wish you would tell us what runs the Rock Island Motor Transit Company has out of Des Moines east which you would call peddler runs.

A. As far as I am concerned they are all peddle runs. We have a trip from Des Moines to Colfax, which takes in Altoona, Mitchellville and Colfax and return.

Q. When does it customarily leave Des Moines?

A. Around 7 o'clock in the morning.

Q. And shipments destined to points like Altoona, Mitchellville and Colfax, are they handled on that run?

A. Yes.

Q. Suppose you had a shipment from Rock Island, Illinois, to Colfax, Iowa, would that be handled on that run?

A. Yes.

Q. That would come into Des Moines?

A. That is right.

Q. About what time does that Colfax peddle run customarily get back into Des Moines?

A. It arrives between 6 and 7 in the evening.

Q. And it performs what type of service in the way of picking up and bringing in freight?

A. It picks up at Colfax, Mitchellville and Altoona and returns to Des Moines.

Q. Can you tell us about what the usual tonnage is that [fol. 1788] is handled on that peddler run?

A. Well, at the present time outbound it runs between 3,000 and 5,000 pounds; 5,000 pounds is a big load on the outbound. That is due to this restriction. On the return it runs 7,000 to 8,000 pounds.

Q. What is the principal point at which it picks up freight?

A. At Colfax.

Q. And you say that the restriction has affected the tonnage handled by that run outbound from Des Moines?

A. Yes, sir.

Q. What particular type and character of shipments were handled previously on that run that can't be handled now?

A. Well, we used to have truckload volume out of and into Mitchellville and also into and out of Colfax which we can't handle now.

Q. Where did that truckload volume come from?

A. From implement dealers and oil companies. There was the Pott Company we used to haul for, and such as that.

Q. And has that 5,000-pound limitation affected the business on that run?

A. Yes, sir.

Q. Now, you also have a turn-around peddler run that operates, I believe, to Newton. Is that right?

A. We have a truck to Newton and we have a peddler run that operates to Grinnell.

[fol. 1789] Q. Is that a daily run that operates to Newton?

A. Yes.

Q. What time does that customarily leave Des Moines?

A. Between 8 and 10 in the evening.

Q. Where does that go?

A. It is a drop-off trailer and the tractor changes trailers at Newton and goes on to Chicago.

Q. Do I understand, then, that tractor would start out of Des Moines for Newton with a trailer of freight destined Newton?

A. That is correct.

Q. And at Newton it drops the semitrailer?

A. That is right.

Q. And the tractor continues on east?

A. He picks up another trailer there and makes pickups at Grinnell and Iowa City and goes on into Chicago. That is, for freight destined Chicago.

Q. How does that Newton unit return to Des Moines? Does it come back to Des Moines westbound?

A. The same method it goes to Chicago. They drop off the trailer out of Chicago at Newton and he picks up a trailer and comes to Des Moines.

Q. You mean each night there is a tractor that drops a trailer off at Newton and picks up the trailer there for Des Moines westbound?

A. That is right.

[fol. 1790] Q. Now, you said something about a run that goes out to Grinnell.

A. That is right.

Q. Tell us about that run.

A. Well, that run handles Kellogg and Grinnell proper.

Q. What time does that leave Des Moines?

A. Around 10 o'clock in the evening.

Q. Does that perform any pickup or delivery service at Newton?

A. No.

Q. What is the first stop it makes?

A. The first stop is Kellogg.

Q. Does that handle merchandise for Kellogg and also handle shipments to Midwest Metal Stamping Company and the One Minute Washer?

A. That is right.

Q. That run goes on to Grinnell?

A. That is right.

Q. It peddles the freight for both Kellogg and Grinnell, and does it pick up any freight at Grinnell?

A. Yes. You see, that runs at night. He puts the freight in the freight house, then he loads up at Grinnell and at Kellogg and returns to Des Moines.

Q. What time does that truck customarily get back into Des Moines?

A. Between 4 and 5 o'clock in the morning.

Q. With respect to these runs you have told us about, your Colfax peddler, your Grinnell peddler and this New- [fol. 1791] ton run where they drop the trailer at Newton, do you handle any rail freight on those runs?

A. Yes.

Q. Do you get that rail freight at the railroad freight house in Des Moines?

A. That is right.

Q. Could you tell us about what proportion on those runs would normally be railroad billed freight and what proportion would be Motor Transit billed freight?

A. I would say about 10 to 15 percent would be rail and the balance motor.

Q. That is by weight?

A. Yes.

Q. All right. Now, you have told us about this service out of Des Moines east. How frequently are these runs operated you have told us about? On what schedules?

A. Daily.

Q. Does that include 5 or 6 days a week?

A. With the exception of Colfax it is 6 days a week, and we operate the Colfax run 6 days a week on return.

If the shippers have anything on that line they want picked up on the 6th day, or Saturday, we usually pick it up.

Q. Now, is there a run out of Des Moines that handles shipments beyond Grinnell?

A. Oh, yes; we have one that runs into Davenport and [fol. 1792] Muscatine that peddles Brooklyn, Marengo, Iowa City, Lone Tree, Nichols and Muscatine, and he changes trailers there and goes into Davenport.

Q. You mean that trailer leaves Des Moines and peddles those towns and winds up at Muscatine, that semitrailer?

A. That is right.

Q. And at Muscatine he picks up another semitrailer—that is right—and goes on into the terminal at Davenport?

A. That is right.

Q. Then, I suppose there is a corresponding movement westward to balance that?

A. That is right.

Q. Now, that serves these towns of Brooklyn and Marengo and Ladora and Victor and these towns out of Des Moines, does it?

A. Well, Victor, Ladora, Homestead and Tiffin are served out of Iowa City.

Q. So anything for those towns on that run would be handled via Iowa City?

A. That is right.

Q. All of these runs you have told us about so far, do they handle both interstate and intrastate freight?

A. That is right.

Q. And they also handle both rail billed freight and motor billed freight?

A. Yes.

[fol. 1793] Q. Your run that winds up at Muscatine, where there is an interchange of semitrailers, that operates in the same manner?

A. That is right.

Q. What about your service into Chicago? I take it that your movement between Chicago and Des Moines on your motor billed freight is somewhat heavier than your movement on your motor billed freight from Des Moines east. Is that right?

A. It is.

Q. How many trucks do you customarily get into Des

Moines from Chicago, or that handles Chicago freight? And do you turn around and return back to Chicago?

A. Between four and five.

Q. How are those returns dispatched from Des Moines?

A. Usually dispatched empty.

Q. Do you handle any rail billed freight between Des Moines and Chicago at the present?

A. No, sir.

Q. Now, prior to the restriction which was imposed and became effective in August 1951, what is the fact as to whether you were dispatching those trucks eastbound out of Des Moines and handling railroad freight destined to Chicago in those units?

A. We were handling from one to two loads to Chicago.

Q. From Des Moines to Chicago?

A. That is right.

Q. And those units which were formerly handling rail [fol. 1794] billed freight out of Des Moines, what kind of freight do they handle now?

A. None.

Q. From Des Moines east?

A. That is right.

Q. They run empty from Des Moines clear back to Chicago?

A. That is right.

Q. Now, prior to the month of August 1951 did you on occasion have truckload motor billed freight out of Des Moines to Chicago or points east of Chicago?

A. Yes; we averaged from one to two truckloads a day.

Q. And did that service balance your movement and get your equipment back to Chicago?

A. That is right. Along with the rail freight we were able to get the equipment back to Chicago and from Chicago to Des Moines.

Q. And now, without any truckload freight out of Des Moines, you are unable to load those trucks on the return movement from Des Moines to Chicago?

A. That is right.

Q. A moment ago you referred to trucks moving between Chicago and Des Moines. Were you referring to shipments moving from Chicago to Des Moines proper or also shipments from Chicago to Des Moines and for distribution on west?

A. Well, shipments moving from Chicago to Des Moines on west through the Omaha gateway, we interline those shipments here at Des Moines.

[fol. 1795] Q. That is, you are at the present time?

A. Since the restriction, yes.

Q. So, if you have a shipment that is picked up in the Tri-Cities area destined to Omaha, Nebraska, or if you have a shipment from Chicago destined to Omaha, Nebraska, what do you do with it here?

A. We interline here at Des Moines.

Q. Who gets the haul from Des Moines to Omaha on that?

A. Roberts.

Q. You customarily have been interlining with Roberts?

A. Yes.

Q. Would there be also shipments from Chicago to points north of Des Moines that would come in on those trucks as well as shipments destined to points on the Kansas City line and beyond?

A. That is right.

Q. How frequently have you found it necessary to refuse or turn down requests for shipments in excess of 5,000 pounds or truckload shipments?

A. Well, I had to turn down a regular movement of truckload freight from Des Moines to Chicago and on into the east to be interlined at Chicago and the same movement from the east to Des Moines this last week.

Q. You mean this present week?

A. Yes.

[fol. 1796] Q. Who was the shipper that tendered that business or inquired about it?

A. John Deere Des Moines Works.

Q. The Des Moines Works of the John Deere Company where they make cornpickers and parts and agricultural implements?

A. That is right.

Q. Now, you say that prior to the restriction you had about how many trucks coming into Des Moines daily from Chicago and points east?

A. Before the restriction?

Q. Before the restriction.

A. Oh, it varied; five, six to seven.

Q. About how has that been running since the restrictions were imposed?

A. Five at the most.

Q. Five is the most you have had?

A. Yes.

Q. With respect to service west out of Des Moines, I wish you would tell us what service you operate west out of Des Moines.

A. Peddlers?

Q. Yes.

A. We have a peddler that makes Dexter, Stuart, Menlo, Casey, Anita, Adair, and returns to Des Moines.

Q. Is that operation as far west as Adair?

A. Anita.

[fol. 1797] Q. Does that then turn around or exchange trailers?

A. It turns around there now under the present operations.

Q. Anita is how far from Des Moines?

A. Well, I would say around 55 miles.

Q. Well, it is 86 miles to Atlantic approximately, and Anita is about 70 miles, isn't it?

A. That is right.

Q. Is that a daily run or daily except Saturday?

A. It operates Saturday.

Q. Saturdays also?

A. Yes.

Q. Now, do you have a run out here that has its terminus at Audubon?

A. Yes.

Q. What time does that run customarily leave Des Moines?

A. Around 3 a. m. in the morning.

Q. Is that daily except Sunday or daily except Saturday?

A. Daily except Sunday. He makes Atlantic, Brayton, Exira, Hamlin and Audubon and returns to Des Moines.

Q. What time of day does this peddler run which goes to Anita leave Des Moines?

A. Around 7 a. m.

Q. What time does it generally get back?

A. Between 3 and 4.

Q. How has that run been with respect to tonnage?

[fol. 1798] A. Well, that tonnage has dropped since this restriction. He has been leaving Des Moines with around 10,000 to 12,000 pounds and most generally returns empty.

Q. You say that out of Des Moines there is about 10,000 to 12,000 pounds?

A. Yes.

Q. When you were running that trailer through and interchanging at Anita with the Omaha run, how was the weight then?

A. It run between 16,000 and 20,000 pounds daily.

Q. What other peddler service do you operate daily out of Des Moines west?

A. Well we have a truck from Des Moines to Omaha which peddles Oakland.

Q. What time does that leave Des Moines?

A. Around 10 o'clock in the evening, and he drops off Oakland shipments and goes on into Omaha.

Q. Do you have any other Omaha service you dispatch out of Des Moines now?

A. That is all.

Q. What trucks did you operate out of Des Moines towards Omaha prior to the imposition of these restrictions?

A. We usually operated two to three.

Q. That is west from Des Moines with Omaha freight and including Chicago-Omaha freight?

A. Chicago and Tri-Cities.

[fol. 1799] Q. And now?

A. We are operating one.

Q. There is one semitrailer that operates between Des Moines and Omaha?

A. That is correct.

Q. What service do you operate between Omaha and Des Moines?

A. One.

Q. You have that unit coming back?

A. Yes.

Q. What time does it customarily leave Omaha for Des Moines?

A. Around 7 or 8 in the evening.

Q. And gets into Des Moines around midnight or a little later?

A. Yes.

Q. Do you have any other service west out of Des Moines than what you have already told us about? Is there an Atlantic run now from Des Moines to Atlantic, or is that the Audubon run?

A. That is the Audubon run.

Q. He handles Atlantic freight but also handles Audubon freight and freight for points on the Audubon line?

A. Yes.

Q. You don't operate any peddler run to Griswold from Des Moines now, do you?

A. Not now; we used to.

Q. At the time you had that run, how was that operated?

A. The same trip I described to Anita, then on to Walnut, [fol. 1800] Griswold and Lewis and returned to Des Moines.

Q. That was all on one day's run?

A. That is right.

Q. How do you handle Lewis and Griswold freight?

A. That goes on the Atlantic truck.

Q. On this truck from Atlantic to Audubon?

A. Yes.

Q. This Audubon truck leaving Des Moines with Atlantic and Audubon and other freight, about what is the usual load on that truck?

A. It runs around between 10,000 and 15,000 pounds.

Q. Do you get any business out of Audubon in return movement?

A. Very little.

Q. And out of Audubon there is very little return shipment?

A. That is right.

Q. What about this Anita peddler? I believe you said that came back practically empty.

A. It arrives in Des Moines practically empty.

Q. So those operations are unbalanced operations? That is the Audubon run and the Anita peddler run practically empty on the return trip?

A. That is right.

Q. What about your Cedar Rapids service from Des Moines?

A. We have two trucks to Cedar Rapids.

Q. How do they operate? Tell us about their schedules. [fol. 1801] A. They are turn-around operations. The drivers go to Cedar Rapids, change trailers. They peddle freight also at Brooklyn and Grinnell.

Q. Let's get that in a little more detail. You have a truck that leaves Des Moines for Cedar Rapids?

A. Yes.

Q. About what time?

A. Around 9 o'clock in the evening.

Q. What time normally does that truck arrive in Cedar Rapids?

A. Around midnight.

Q. That is a distance of approximately, I believe, 118 or '19 miles to Cedar Rapids.

A. Something like that.

Q. Does the tractor pick up a semi-trailer at Cedar Rapids destined to Des Moines?

A. Yes.

Q. Do both the eastbound and westbound runs serve any intermediate points?

A. Yes. They serve Marengo, Brooklyn, Grinnell and Newton on the return trip.

Q. Normally there is not much peddling done on the eastbound trip out of Des Moines, is there?

A. No.

Q. Now, you say you have two trucks to Cedar Rapids from Des Moines. Where does the other truck run?

[fol. 1802] A. They both leave around the same time.

Q. Oh, there is enough business between Cedar Rapids and Des Moines to require more than one truck?

A. Yes.

Q. And is that a fairly well balanced load in both directions, or is it heavier one way?

A. It is heavier from Des Moines to Cedar Rapids than from Cedar Rapids to Des Moines.

Q. But you do have two units operating each night between Cedar Rapids and Des Moines?

A. That is right.

Q. Now, what service do you have into Muscatine? Let's say from Omaha to Muscatine. Is that handled on this run you spoke about that goes down from Iowa City through Lone Tree and Nichols and where the semitrailer is dropped at Muscatine?

A. That is right.

Q. Do you have any other service between Cedar Rapids and Des Moines other than the two units you have told us about?

A. From Cedar Rapids to Des Moines?

Q. Either way. Do you have a unit out of Cedar Rapids for Des Moines other than these two you have told me about?

A. Yes, they operate one trailer out of Cedar Rapids to Des Moines and return back to Cedar Rapids.

Q. What type of freight does that trailer carry?

A. That is usually rail freight.

[Vol. 1803] Q. Is that operated almost entirely for rail freight?

Q. I suppose if there was an overflow or more than the other trucks could handle, you would use that also for motor billed freight?

A. That is right.

Q. Do you solicit business for the Rock Island Railroad here?

A. I do not.

Q. Who is your immediate superior in the organization of the Rock Island Motor Transit Company?

A. Mr. Carl Bergen.

Q. Now, you have general supervision, I take it, over the movement of the trucks which operate over routes that terminate here in Des Moines, do you not?

A. Yes.

Q. Now, there is a route down by way of Prairie City, Pella, Oskaloosa and Ottumwa, thence over to Fairfield, over into Davenport. Do you dispatch the trucks over that line?

A. Yes.

Q. How many runs do you have on that route?

A. We have one truck from Des Moines to Ottumwa, and one from Oskaloosa to Des Moines and return, and one from Fairfield to Des Moines and return, and the one you described and which we call the south peddler. He hauls all the way to Davenport.

Q. And that makes these smaller intermediate towns?

[fol. 1804] A. Yes.

Q. How would a shipment from Omaha destined to Prairie City or Oskaloosa be handled?

A. It would be handled through Des Moines. We transfer it at Oskaloosa to the Oskaloosa trailer.

By Mr. Fowler:

Q. The next?

A. Princeton, Washington, and Wellman.

Q. Now, I assume that you determined that fact by a check of the available motor carrier guides, is that correct?

A. That is correct, sir.

Q. Now you, of course, have a service available to those points by Rock Island Railroad?

A. That is correct, sir.

Q. So that any shipment moving to those points under rail billing could be handled by the Rock Island Railroad?

A. That is right.

Q. Either by rail car or by motor truck?

A. Correct.

Q. And if, of course, handled on motor truck, it would have to be handled on rail billing?

A. Correct.

Q. What objection would there be to such a service, assuming that the Commission should deny this present application? What is wrong with that kind of service? In other words, let's take a shipment moving from Omaha to Durant, we will say. As I understand, it could be [fol. 1828] tendered to the Rock Island Railroad on rail billing and then would be transported from Omaha to Durant by truck.

Mr. Howland: Well, partly by truck and partly by railroad.

Mr. Fowler: You can get through Des Moines, can't you?

Mr. Howland: No, we have a key point at Des Moines.

Mr. Fowler: Then a shipment moving from Omaha to Durant, Iowa, under the permanent authority which the railroad has, would require that the shipment be handled from Omaha to Des Moines on truck or rail, and from Des Moines to the destination at Durant by the converse of that truck or rail, is that correct?

Mr. Howland: That is correct.

Mr. Nolan: This is off the record.

(Discussion off the record.)

Q. And that would require a transfer here at Des Moines?

A. That is right.

Q. Do you also dispatch trucks out of Des Moines for the north towards Minneapolis?

A. Yes.

Q. What runs do you have there?

A. We have a peddle run from Des Moines to Mason City and return.

Q. What time does it customarily get out of Des Moines?

A. Around 7 o'clock in the morning.

Q. And that goes north over U. S. Highway 65?

A. That is right.

Q. Up through Iowa Falls to Mason City and return? That is, it returns to Des Moines.

A. Yes, and peddles all intermediate points.

Q. All right. What other runs?

A. We have two trucks to St. Paul. Usually one of those is full straight through; the other one peddles Mason City, Albert Lea and Owatonna.

Q. There are no other runs dispatched out of Des Moines [fol. 1805] than those you have told us about-- Wait a minute. There is one to Kansas City, is there not?

A. That is right.

Q. What trucks are dispatched from Des Moines towards Kansas City?

A. Usually two a night, and they leave around 9 or 10 at night. One of them usually peddles Indianola.

Q. Is that the only intermediate point you serve between Des Moines and Kansas City?

A. Yes.

Q. Now, you have both inter and intrastate freight on all the runs out of Des Moines on U. S. Highway 6 between Omaha and Davenport, do you not?

A. Yes, with the exception of Dexter, Stuart and Menlo.

Q. From Des Moines that is restricted on interstate freight?

A. That is right.

Q. A shipment originating from Davenport for Dexter, Stuart or Menlo, you can handle?

A. That is right.

Q. So you have inter and intrastate freight on all these runs?

A. That is right.

Q. And you can handle, for instance, from Cedar Rapids to those towns to which you referred?

A. Yes.

Q. Now, you have inter and intrastate rights on Harlan [fol. 1806] and those points located on what was known as the Fredrickson route?

A. That is right.

Q. Now on the route down by way of Ottumwa and over through Fairfield and back up to Davenport you have both inter and intrastate freight without restrictions, do you not?

A. That is right.

Q. And that covers the whole of that line?

A. That is right.

Q. Now, on the Kansas City line you have only interstate freight, I believe.

A. That is right.

Q. What about the operation north towards Mason City?

A. Between Des Moines and Mason City we only have interstate rights for freight on those peddle runs.

Q. Now you do have intrastate freight on your Mason City run, do you not?

A. Yes.

Q. And do you handle it?

A. Yes.

Q. How about the St. Paul run you referred to?

A. We have both intra and interstate rights in Minnesota to St. Paul.

Q. You handle both intra and interstate freight in Minnesota on that run?

A. That is right.

[fol. 1807] Q. Now, is there any other service out of Des Moines other than we have discussed here?

A. No, sir.

Mr. Howland: I believe you can cross examine.

Exam. Carpenter: Cross examine.

Mr. Fowler: I have been, just been informed by counsel that under the permanent authority held by the railroad, a shipment moving from Omaha to Durant, Iowa, for example, would have to be handled by rail car to Des Moines, and by truck from Des Moines to Durant.

Mr. Howland: That is correct.

By Mr. Fowler:

Q. Now, of course, a shipment moving from Omaha—withdraw that.

By Mr. Fowler:

Q. A shipment tendered to the Rock Island Railroad at Omaha destined to any point west of Des Moines on U. S. [fol. 1829] Highway 6 would be handled by truck even though it was moving under rail billing, is that your understanding of it?

A. That is my understanding.

Q. All right, now. Let me ask you what is wrong with that type of service?

A. First of all the interchange of traffic, from my experience.

Q. Just a moment, please. I didn't say anything about interchange. I took a shipment originating at Omaha, moving to one of these points.

Mr. Howland: There is an interchange between the rail and truck lines.

A. Yes, sir. That is what I had in mind.

Mr. Fowler: I apologize. I am sorry.

A. The interchange of traffic from the rail to the truck, in my opinion, would cause a delay.

By Mr. Fowler:

Q. Now, what process do they have to go through at Omaha to accomplish that?

A. First of all would be the loading of the car at Omaha, then to Des Moines, and then to the truck here, truck at Des Moines.

Cross examination.

By Mr. Bradshaw:

Q. Mr. Tiedemann, you testified that approximately 10 to 15 percent of the freight going out of Des Moines was rail freight.

A. On peddle runs, yes.

Q. Is that on all peddle runs?

A. Yes.

Q. Can you make an estimate of the amount of rail freight coming into Des Moines on these same peddle runs?

A. Well, it is very light.

Q. But there is some?

A. There is some, yes.

Q. You mentioned that the freight into Cedar Rapids from Des Moines was heavier going into Cedar Rapids and lighter coming back. That has been a normal situation right along, hasn't it?

A. Just since the restrictions.

Q. How did the restrictions affect that?

A. On account of the 5,000-pound restriction. Before the restriction we used to handle for several firms having shipments over 5,000 pounds.

[fol. 1808] Q. Who is handling that now?

A. I don't know.

Q. With the exception of the run to Chicago from Des Moines you handle both rail and motor freight on all these trucks, do you not?

A. No, sir. We do not handle any rail freight from Des Moines to Omaha or Kansas City or Davenport or the Tri-Cities.

Mr. Bradshaw: That is all.

Redirect examination.

By Mr. Nolan:

Q. Mr. Tiedemann, how many employees did you have under your supervision at the dock here in the Des Moines terminal prior to the restrictions?

A. Sixty-two.

Q. Well, now, doesn't the Rock Island Transit Company start a truck operating on rail billed freight from Omaha eastbound to those points?

A. Yes, sir.

Mr. Howland: What points?

Mr. Fowler: Points west of Des Moines on U. S. Highway 6.

[fol. 1830] By Mr. Fowler:

Q. Why would that require an interchange?

A. Would you mind repeating the question? If my understanding is correct, it would require an interchange at Des Moines.

Q. Well, let's assume for the purposes of my question, that the Rock Island Railroad now has permanent authority to transport a shipment originating at Omaha under the motor carrier authority, hauled by its affiliate directly from Omaha to points west of Des Moines on U. S. Highway 6 by truck?

A. Yes, sir.

Q. Now, the evidence in this record shows that rail shipments and motor carrier shipments are handled by the same pick-up truck in Omaha?

A. That is correct, sir.

Q. So let's assume further, for the purpose of this question, that a shipper tenders a five hundred pound shipment to the Rock Island Railroad under rail billing. It would be picked up by a Rock Island pick-up truck, and would be delivered to the freight depot, where both of them have their freight dock?

A. Right, sir.

Q. And that shipment would be transported then by truck from Omaha to the destination point on rail billing?

A. Yes.

Exam. Carpenter: When you have spoken of "truck" you meant the Rock Island Motor Transit?

Mr. Fowler: That is right.

[fol. 1831] By Mr. Fowler:

Q. Now, what do you see wrong with that kind of service?

Q. How many did you have after the restrictions were imposed? At the time of the other hearing?

A. Forty-three.

Q. And how many do you have at this time?

A. Twenty-seven.

Mr. Nolan: That is all.

Mr. Howland: That is all.

Mr. Bradshaw: Nothing further.

Exam. Carpenter: You will be excused.

(Witness excused.)

Mr. Landau: I would like to enter my appearance. My name is William A. Landau; my address is 1307 East [fol. 1809] Walnut Street, Des Moines, Iowa. I am admitted to practice before this Commission. Am appearing on behalf of Eldon Miller, Inc., intervenor in opposition.

Exam. Carpenter: We will adjourn until 9:30 a. m., March 31, 1952, to this same place.

(Whereupon, at 5:07 p. m., March 28, 1952, an adjournment was taken in this matter until 9:30 a. m., March 31, 1952.)

[fol. 1809a] TRANSCRIPT OF PROCEEDINGS OF MARCH 31, 1952

APPEARANCES: (Additional)

R. H. HEINECAMP, Manager of the Transportation Department, Omaha Chamber of Commerce, Omaha, Nebraska, 108 South 18th Street, Elks Club Building, Omaha, Nebraska, appearing for the Omaha Chamber of Commerce, intervenor in support.

[fol. 1810] Exam. Carpenter: You may proceed whenever you are ready.

Mr. Howland: We will ask Mr. Heinecamp to be sworn.

A. No, I can't.
Q. Now——

Exam. Carpenter: I don't think there is an answer. Read that question and read the answer. You haven't answered the question.

(Question and Answer read.)

Mr. Fowler: There is nothing wrong with the service. That is his answer.

By Mr. Fowler:

Q. Now, Mr. Heinecamp, as I understand it, there are some differences in the tariff requirements as to packing, freighting, etc., between rail billing and motor carrier billing?

A. That is correct.

Q. Now, without going into too much detail, will you explain to me the advantages to a shipper with respect to those particular factors on motor carrier billing over rail billing?

A. I can only speak in very broad, general terms as a motor carrier versus railroad. From an over-all classification point of view as to packing, is that what you have in mind?

Q. Yes. O. K.

A. Generally speaking there is more liberality with a motor carrier than there is with a railroad. The railroad has more restrictions than a motor carrier in so far as the packing of the goods is concerned.

[fol. 1832] Q. Then there is some benefit to a shipper who tenders his shipments under motor carrier billing than would be true under rail billing wherever the question of packaging and freighting is involved?

A. That is correct.

Mr. Fowler: I believe that is all I have.

R. H. Heinecamp was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Will you state your name, please, so we can all get it?

A. R. H. Heinecamp, Manager of the Transportation Department of the Omaha Chamber of Commerce, Omaha, Nebraska.

Q. How long have you been the Manager of the Transportation Department of the Omaha Chamber of Commerce?

A. Approximately four and one-half years.

Q. And your employment immediately before that time was what?

A. Immediately before that I was employed as Manager of the La Crosse-Winona Traffic Bureau for approximately fourteen months. Prior to that time I was nineteen years with the Chicago and North Western Railway Company, in Chicago, Illinois, in their Traffic Department.

Q. Now, I take it in connection with your position with the Chamber of Commerce you have had occasion to familiarize yourself with the traffic and transportation problems of the Omaha community?

A. I have.

Q. What generally is the nature of the business enter- [fol. 1811] prises located at Omaha that require transportation?

A. It is, Omaha is quite a wholesale center as well as a retail center, but our interest here is more from the wholesale point of view.

Q. In the matter of distribution of goods?

A. That is right, distribution.

Q. From Omaha to points in the territory?

A. That is correct, sir.

Q. Now, Mr. Heinecamp, how many members do you serve in your Transportation Department of the Chamber of Commerce?

A. The membership of the Chamber of Commerce is approximately thirty-five hundred, and that includes wholesalers, retailers, and everybody.

Q. That includes the whole membership?

Redirect examination.

By Mr. Howland:

Q. Mr. Heinecamp, counsel has asked you certain questions about your understanding of the situation of the Rock Island Motor Transit Company, and its ability to render transportation service between Minneapolis and St. Paul and Omaha; and between Kansas City and Omaha. Is it your understanding that at present the Rock Island Motor Transit Company can render service from Omaha or to Omaha from these points in excess of five thousand pounds?

A. My understanding, based upon my understanding they can not.

Q. That is to Omaha?

A. That is right. I am talking about Omaha, nothing else.

Mr. Fowler: Can I bother you a minute? Off the record again.

Exam. Carpenter: Yes.

(Discussion off the record.)

By Mr. Howland:

Q. Now, Mr. Heinecamp, counsel has been talking about shipments moving on rail billing from Omaha to certain [fol. 1833] destinations. Now, it might be possible under the present authority of the Rock Island Motor Transit Company for a shipment to be moved on rail billing from Omaha to a point between Omaha and Des Moines. You said, I believe, you saw nothing wrong with that particular service, is that right?

A. That is correct, sir.

Q. Would that service enable the interline motor carrier service to be performed to destinations between Des Moines and Omaha?

A. I believe it would.

Mr. Howland: Under the present situation.

Mr. Fowler: Let's go off the record again.

(Discussion off the record.)

Mr. Howland: Strike the answer out and read the question.

(Question read.)

A. No, it would not.

By Mr. Howland:

Q. Now, that would be true with respect to the intermediate points between Des Moines and Omaha?

A. Yes.

Q. Now, of course, if the shipment counsel has asked you about were moving from Omaha to a point east of Des Moines on U. S. Highway 6, is it your understanding that the present authority would require movement from Omaha to Des Moines by a boxcar and a transfer there to motor truck, and by motor truck would be handled?

A. That is my understanding, sir.

[fol. 1834] Q. Are there any disadvantages in connection with such a movement as that?

A. Except that the interchange of freight, would be subject to more handling and subject to more damage, and create a greater liability among the carriers, I mean the shipper, damage to his freight.

Q. What about the delay?

A. And the delay, yes, sir.

Q. Now, counsel has asked you about the service of the other truck lines operating between Omaha and Chicago. Is the Burlington Transportation Company, or Burlington Truck Lines I believe is the present name, is that a subsidiary of the C. B. & Q. Railroad?

A. That is my understanding that it is.

Q. Does that company have any maximum weight restriction or key point restriction at present to your knowledge?

A. No.

Q. Now, you referred to the truck line which you described as "Sante Fe" operating between Kansas City and Omaha. Is that truck line a subsidiary of the Atchison, Topeka and Santa Fe Railroad?

A. It is my understanding it is such.

Q. And that operates as a motor carrier?

A. Yes, sir.

Q. The professionals and others. About how many people, that is how many different concerns, firms or corporations do you service and aid in your traffic work?

A. Our actual count on that is two hundred eighty-three. That is based upon, every week we disseminate transportation facts regarding rates, changes in classification, and any changes pertaining to transportation that may affect the City of Omaha as a whole, and that generally goes out to the shippers and receivers of freight.

Q. And you have about two hundred eighty-three you say?

[fol. 1812] A. Approximately two hundred eighty-three.

Q. At the last count?

A. That is correct, sir.

Q. Now, what are the lines of business that make shipments by motor carrier from Omaha into the Iowa territory and into Illinois points?

A. The only way I could answer your question would be from a general knowledge, and that is the wholesale and retail industries of Omaha speaking from a civic point of view. That would be Paxton & Gallagher, and Eggerss-O'Flyng, Carpenter Paper Company, Brandeis, Paxton & Vierling Iron Works, Gate City Steel, etc. We have a cross-section of the various commodities.

Q. Are a substantial number of those shippers interested in transportation in truckload quantities?

A. Yes, they are because I make that statement, at our Transportat*uib* Committee meeting, which is held once a month, any problems that would affect the City of Omaha is brought up before this Transportation Committee. Now, this Transportation Committee is composed of shippers, railroads, and motor carriers, and anything that would affect either one of them is brought up for a general discussion at our Transportation Committee meeting.

Q. You are familiar with the fact, I take it, that the Rock Island Motor Transit Company is operating under a restriction of five thousand pounds maximum weight on any one shipment?

A. I am, sir.

[fol. 1813] Q. Is that, as you have observed, affecting in

any manner the ability of the Rock Island Motor Transit Company to render a comprehensive transportation service to shippers or receivers of freight in the Omaha vicinity?

A. In my opinion the five thousand pounds has impaired us to a certain extent in rendering service, I mean for the Rock Island to render service to the shippers of Omaha, the shippers and receivers of Omaha.

Q. Can you tell us in what respect that has been evident, on what you base your answer?

A. I can only give you an opinion, and that is based upon the fact at different times at our Transportation Committee meeting, when the subject was more or less discussed, that if a shipper, for instance, Paxton & Gallagher was to offer a shipment over five thousand pounds, it would have impaired them. If the Carpenter Paper Company would offer a shipment of over five thousand pounds, it would impair them.

Q. In your judgment is it necessary for a motor carrier, in order to have a sound dependable operation, is it necessary that motor carrier have authority to handle truckload as well as volume shipments in excess of five thousand pounds?

A. In my opinion, the answer is yes because just recently in looking at the financial statement of the Rock Island, why I would say the answer definitely is yes.

Mr. Fowler: I think I will move to strike the last state-[fol. 1814] ment, with reference to the voluntary statement based on purely hearsay.

Mr. Howland: I think probably that should go out. That is you mean the statement based on the financial statement of the Rock Island.

Exam. Carpenter: That portion of the answer is stricken.

By Mr. Howland:

Q. Now, Mr. Heinecamp, are there shippers in the Omaha territory, to your knowledge, who would use the service of the Rock Island Motor Transit Company in making volume shipments into the Iowa territory, particularly points on or adjacent to U. S. Highway 6 if the Rock Island Motor Transit's restriction were removed, or the maximum weight limits substantially increased?

A. That is right, common carrier.

Q. Between Kansas City and Omaha. Now, does that line [fol. 1835] have any restrictions, either with respect to weights of commodities transported, or with respect to key points?

A. No, sir.

Q. Counsel has asked you about the daily merchandise car service available via rail lines. Do you know what the total time in transit by merchandise car service is as compared with truck service?

A. I would say that based upon a recent survey that I made, that there would be, that the motor carriers do offer superior service over the rails by at least from twelve to twenty-four hours.

Q. Now, you have in giving a list of some fifteen or sixteen points that are in Iowa that are affected by this matter on hearing, you have checked the points which have no common motor carrier service except by the Rock Island Motor Transit?

A. That is correct.

Q. And I believe you listed some points on U. S. Highway 6 such as Coralville, Durant, and one or two others, as well as points off of Highway 6?

A. That is correct.

Q. Now, have you checked to determine what the actual transportation service that may be available by other lines to some of these points on U. S. 6, as compared with the service of the Rock Island Motor Transit Company which is being performed?

A. No, I have not.

[fol. 1836] Q. In other words, you have taken merely the service—I will withdraw that. Strike it out.

Q. In other words, you have taken your routing guide and if, for instance, the routing guide shows that West Liberty is a point served by a particular motor carrier, irrespective of the frequency of the service to it, why, you would not have included that in your list of points?

A. That is correct, sir.

Q. And, of course, it is true that to all of these points which are sought to be served by the Rock Island Motor Transit Company between Davenport, Iowa, and Omaha,

Nebraska, that under present conditions there could be no interline motor carrier service into those towns on rail billing?

A. That is correct, sir.

Mr. Nolan: I have got some questions.

Mr. Howland: All right.

By Mr. Nolan:

Q. Mr. Heinecamp, you mentioned the loss of certain payroll and personnel in Omaha upon the cessation or elimination of the Rock Island Motor Transit Company as a motor truck operator independent of the rail connection. Now, I will ask you whether or not, from your observation and contact with the Rock Island Motor Transit Company, if the Rock Island Motor Transit Company, in so far as its personnel is concerned, has been operating independent of the Rock Island Railroad and under a separate setup of its own?

[fol. 1837] A. The Rock Island Motor Transit has been operating separate and distinct from the Rock Island Railroad.

Q. Now, you have been in Omaha a little over four years?

A. Four and one-half years.

Q. And throughout that time up until the restriction, what is the fact as to whether or not the Rock Island Motor Transit Company has been operating during that time, so far as your personal knowledge, as a motor carrier with its own personnel and independent of the Rock Island Railroad?

A. That is correct, sir. They have been operating independent of the Rock Island Railroad.

Q. Now, what is the fact as to whether or not the continuation of the Rock Island Motor Transit Company's service as it existed at the time you came to Omaha and up until the time of the restrictions, would be the addition of a new carrier, or would be merely the continuation of the service and an operation that existed there for at least your duration in Omaha?

Mr. Fowler: That is objected to as leading and suggestive, merely the repetition of an obvious fact. I object to it as immaterial.

A. I believe they would, definitely.

Q. Mr. Heinecamp, are you aware of any truck line operating in the Omaha territory that presently operates with a weight restriction on the maximum weight for any particular shipment?

A. There isn't any to the best of my knowledge.

Q. Now, we have been discussing principally shipments outbound from Omaha to points in the Iowa and Illinois territory on the routes of the Rock Island Motor Transit Company. What about shipments from, to and from Chicago, Illinois, by the Rock Island Motor Transit Company?

A. I don't believe I understand your question, sir.

Q. Well, what I want to get at is, are you aware that [fol. 1815] the Rock Island Motor Transit Company is unable to perform service between Chicago, Illinois, and Omaha, Nebraska?

A. Fully aware of that, sir.

Q. And also in the opposite direction?

A. That is correct, sir.

Q. What has been, as you have observed it, the effect of that restriction?

A. Any competing industries of Omaha, I don't mean industries, wholesale and retail companies, competing with Des Moines, as an example, or Chicago, they are restricted in so far as the volume shipments are concerned.

Q. Now, I take it that there is a substantial amount of transportation service by other carriers, both rail and motor, between Chicago and Omaha. Does it, as you have observed it, the restriction eliminating business of a through character, affect the ability of the Rock Island Motor Transit Company to render a dependable service?

A. That is correct.

Q. And why is that true? How does that work as you have observed it?

A. It works because of the fact that the restriction of the Rock Island Motor Transit, as compared to other carriers.

Q. Do you mean that by that answer, that the Rock Island Motor Transit Company is impaired in rendering a comprehensive, overall service?

[fol. 1816] A. That is correct, sir.

Q. To all shippers?

A. That is correct, sir.

Q. And have you ever had occasion to observe, in your experience, whether the imposition of restrictions of a territorial character, what effect such restrictions have on the ability of the carrier to perform service generally? By that I mean this, have you ever observed whether the shippers of freight generally will be inclined to turn their business over to carriers that have no restrictions on their operation as to territory and anything of that sort?

A. In my opinion the answer would be that they would turn it over to other carriers because of the impaired restrictions.

Q. Omaha has a population of about how many persons?

A. Two hundred fifty thousand.

Q. And we have been talking about the general character of the Omaha industry as a distributing center. Do Omaha concerns have contracts involving National Defense?

A. There are several out there that do.

Q. Can you tell us in what general lines those encompass?

A. It is generally on iron and steel articles, without naming the companies, which I can do if you want.

Q. Processing of various types?

A. That is correct.

Q. And kinds?

[fol. 1817] A. Eaton Metal Products is one that does have a Defense contract.

Q. Do either the materials which are used, or the finished product, move from or to the territory involved in this application?

A. I would say they would move both ways, both inbound and outbound. It is fabricated at Omaha and then shipped out again.

Q. And are those movements in volume quantities, that is above five thousand pounds?

A. Yes, sir.

Q. As well as truckloads?

A. Yes, sir.

Mr. Howland: I think you may cross-examine.

Exam. Carpenter: Mr. Fowler.

Exam. Carpenter: The objection overruled.

A. That the continuation of the Rock Island Motor Transit would be construed, so far as the Chamber of Commerce is concerned, as a new industry, let's put it that way, because we are vitally concerned with the acquirement of new industries.

[fol. 1838] Exam. Carpenter: Read the question.

A. I am sorry if I misunderstood it, Mr. Examiner.

Mr. Fowler: Now, just a moment. You may read the question.

Exam. Carpenter: Read the question.

(Question read.)

A. My answer would be, that would be a new company.

By Mr. Nolan:

Q. Why do you say it would be a new company?

Exam. Carpenter: That is the same answer as you made before.

A. I am sorry.

Mr. Fowler: It is all right. Leave it there. It is all right.

By Mr. Nolan:

Q. I will put it this way. Mr. Heinecamp, the Rock Island Motor Transit Company was doing an unlimited and unrestricted motor carrier business at the time you came to Omaha?

A. That is correct, sir.

Q. And I will ask you whether or not it is your purpose to seek the continuation of the same type of service that the Rock Island Motor Transit Company was affording at the time you came to Omaha?

A. Yes, sir.

Mr. Fowler: That is objected to as leading and suggestive.

Exam. Carpenter: We will let it stand, Mr. Fowler.

By Mr. Nolan:

Q. And whether or not it is a new service or a continuation of an old service, state whether or not you want it to continue.

[fol. 1839] Mr. Fowler: That is objected to as leading and suggestive, immaterial and repetition.

Exam. Carpenter: We will permit him to answer.

A. We are here to see that the Rock Island Motor Transit continues to operate as it previously has.

By Mr. Nolan:

Q. All right. Now, state whether or not the Rock Island Motor Transit Company belongs as a motor transit company to the Chamber of Commerce, independent of the Rock Island Railroad belonging to the Chamber of Commerce of Omaha.

Exam. Carpenter: Read the question.

(Question read.)

Mr. Nolan: I will withdraw that.

By Mr. Nolan:

Q. State whether or not the Rock Island Motor Transit Company is a member of the Chamber of Commerce of Omaha?

A. They are.

Q. State whether or not the Rock Island Railroad is also a member of the Chamber of Commerce?

A. They are.

Q. In other words, they have separate memberships, do they not?

A. Yes, sir.

Mr. Nolan: That is all.

Mr. Fowler: That is all.

Mr. Nolan: I want to ask Mr. Heinecamp a couple more questions.

Cross-examination.

By Mr. Fowler:

Q. With respect to this key point restriction, which is intended to prohibit a rail-owned subsidiary from conducting a through motor carrier service between such points as Chicago and Omaha, now, will you please tell me the names of the carriers, and I am speaking now about established motor carriers, that have a service from Chicago to Omaha?

A. I will say the Watson Bros., Merchants Motor Freight, Prucka, Iowa-Nebraska, I believe the Des Moines Transportation, On-Time, Union, Union Freightways, Burlington-Truck Lines, Independent Truckers. That is about all of them.

Q. So at the present time you have a service by established, independent motor carriers operating between Omaha and Chicago by the carriers you have just named? [fol. 1818] A. Yes, sir.

Q. And that is regular established service, is it not?

A. Yes, sir.

Q. And these carriers, all that you have named are substantial carriers?

A. Yes, sir.

Q. Now, do you have any idea that you need any more motor carrier service between Chicago and Omaha?

A. I will say this, that certain shippers may have a preference for the Rock Island Motor Transit. I would say that there are fifteen towns that would not be served except by the Rock Island Motor Transit.

Q. Now, Mr. Heinecamp, my question, will you read my question to the witness, please?

Exam. Carpenter: Read the question.

(Question read.)

A. I would say yes from a selfish standpoint. If I may qualify that answer, I would be glad to.

By Mr. Fowler:

Q. I think you better.

A. Because, if the Rock Island Motor Transit is not

granted a certificate of convenience and necessity in so far as Omaha, I am speaking of Omaha as a specific point of interest, it would mean the loss of a payroll to the City of Omaha of approximately around seventy-five thousand dollars. It would also mean the curtailment of, laying off [fol. 1819] certain employees. I think in the previous hearing I testified approximately to the same statement.

By Mr. Fowler:

Q. Where do you get all of this information about the financial condition of the Rock Island Motor Transit, and how it is going to affect its employees? Do you work for the Rock Island Railroad?

A. No, sir.

Q. Where do you get all of this inside information you seem to have about this company?

A. Because of checking, sir, with the Rock Island Motor Transit.

Q. Do you claim that you have personal knowledge, and are qualified to state?

A. No, sir.

Q. That if this key point restriction was left on there would be a reduction in payroll at the Omaha terminal of the Rock Island Motor Transit Company of seventy-five thousand dollars a year?

A. No, sir, I do not have the personal knowledge to that effect.

Q. All right. Now, let me ask you again, you are the Manager of the Transportation Department of the Omaha Chamber of Commerce, and I am assuming, for the purpose of this question, you have some knowledge of the service available?

A. Yes, sir.

Q. To the members of your Association. Now, I want you to give me your opinion as to whether or not based on public convenience and necessity, there is any need for any addi- [fol. 1820] tional motor carrier service between Omaha and Chicago.

Mr. Nolan: Just a minute. That is objected to as argumentative, not proper cross-examination because under the

[fol. 1840] Exam. Carpenter: Mr. Nolan.

By Mr. Nolan:

Q. Mr. Heinecamp, as I understand your answers now, you have no personal knowledge as to the physical handling of freight tendered to either the Rock Island Railroad, which may move part way by truck, or the physical handling of freight which is tendered the Rock Island Motor Transit Company?

A. That is correct.

Q. You have never been down there?

A. No, sir.

Q. Have not handled or followed any shipments for either company, isn't that true?

A. That is true, sir.

Q. And isn't it also true you don't know what factors that may cause one shipment to be expedited and another shipment delayed?

A. That is correct, sir.

Q. And you don't know the physical handling or requirements of a shipment tendered to the Rock Island Railroad, which leaves out of Omaha on motor truck on rail billing, isn't that true?

Mr. Fowler: That is objected to as immaterial, not proper redirect examination, an attempt to argue and impeach his own witness.

Mr. Nolan: This isn't my witness. I appear here as an intervenor.

Mr. Fowler: I think he is your witness.

Exam. Carpenter: Go ahead.

[fol. 1841] A. Will you repeat the question again, please?

Exam. Carpenter: Read the question.

(Question read.)

A. That is correct.

Mr. Nolan: That is all.

Mr. Fowler: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

record made here the Rock Island Motor Transit Company has been in business for many years serving the City of Omaha, and I think that the question of additional motor service there would be the question of whether or not there is need for the continuation of the service of the Rock Island Motor Transit Company, and the question is wholly impartial and argumentative.

Mr. Fowler: I move to strike the objection of counsel on the grounds it is more of an observation, and merely the statement of counsel. Further, the lawyer that made that objection is not presumed to be examining the witness.

Mr. Howland: I will make the objection in that case.

Exam. Carpenter: All of the objections are overruled. Go ahead and answer the question.

Mr. Fowler: Read the question to the witness.

(Question read.)

A. My answer is yes.

By Mr. Fowler:

Q. For the reason?

A. For the reason, if I may develop my analogy, you have half a dozen railroads, or more, serving Omaha and Chicago, the North Western, the Burlington, the Milwaukee, the Great Western, and other towns, plying between Omaha and Chicago, and I think competition is a helpful commodity for everybody concerned, sir.

[fol. 1821] Q. Now, are you talking about competition between railroads?

A. No, I am developing my analogy, sir.

Q. Will you explain that to me, please? I don't get it.

A. Because of the fact there are a certain number of common motor carriers operating between Omaha and Chicago there with the Rock Island Railroad, serving the same points between Omaha and Chicago. It is my analogy that the railroads who are serving the same towns are in competition with other railroads.

Q. Well, now, do these other railroads have a motor carrier service in addition to their rail service between Chicago and Omaha?

A. I think the Burlington Railroad does.

Exam. Carpenter: Are there any further appearances at this time? Are there any further appearances at this time?

Mr. Heinecamp: R. H. Heinecamp, Manager of the Transportation Department, Omaha Chamber of Commerce, 108 South 18th Street, Elks Club Building, Omaha, Nebraska, as an intervenor in support of the application.

Mr. Howland: I will call Mr. W. F. Peterson.

Exam. Carpenter: How would you like to take a five minute recess?

Mr. Howland: I think it might be a very good time.

(Short recess.)

W. F. PETERSON was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. State your name, please.

A. W. F. Peterson.

Q. And you live in Des Moines, Mr. Peterson?

[fol. 1842] A. I do, yes.

Q. And I believe you are General Manager of the Rock Island Motor Transit Company, the applicant here?

A. I am.

Q. How long have you been connected with the Rock Island Motor Transit Company?

A. Since February, since January 20, 1937.

Q. And prior to that time what had been your business?

A. Since 1928 until that time I had owned and operated a truck line since 1928.

Q. And that truck line was located?

A. Located in Hutchinson, Kansas.

Q. And served an area extending west and northwest?

A. It extended from Wichita, Kansas, west to, all of the area in southwestern Kansas and part of the time to Pueblo and Denver.

Q. You are familiar with the application which is filed in this case?

Q. Do any of the others?

A. The Chicago Great Western has a certain agreement with Watson Bros. hauling their commodities between Chicago and Omaha on flat cars.

Q. Well, that is, is just the regular tariff rate where the motor carrier uses rail flat car service. That is all that is.

A. It is a question of divisional arrangement, so much per car and so much per mile.

Q. Then that arrangement is, Watson loads on flat cars at Omaha or Chicago its freight, and it is hauled by rail on flat cars at the tariff arranged?

A. That is right, sir.

Q. There is no other railroad you know of, outside of [fol. 1822] the Rock Island Railroad, and perhaps the C. B. & Q., that has any motor service in addition to its rail service between Chicago and Omaha?

A. That is correct.

Q. Now, what is your opinion as to whether or not the fact that the Rock Island Railroad has this truck affiliate gives it a great, definite advantage over the other railroads serving Omaha?

Mr. Howland: That is objected to as argumentative in form, and is not proper cross-examination.

Exam. Carpenter: The objection sustained.

Mr. Fowler: Well, now, if the Examiner please, I am not going to quibble with you about it, but it is an issue in this proceeding as to what effect this competition has with other railroads, and if you don't want me to develop it, I won't, but it is an issue in this proceeding.

Exam. Carpenter: Objection sustained.

By Mr. Fowler:

Q. Now, with respect, you understand that the Rock Island Motor Transit Company also has a motor carrier service between such points as Minneapolis, St. Paul and Omaha?

A. Yes, sir.

Q. And do you understand there is any restriction on its service between those two points at the present time?

A. No, I don't.

A. I am, yes.

Q. And I don't believe the record ought to show your age, Mr. Peterson.

A. I am fifty-four years old.

Q. Mr. Peterson, I believe that the White Line Motor Freight Company was the first of the motor carrier operations that was undertaken by the Rock Island Motor Tran- [fol. 1843] sit Company. I am correct in that?

A. You are correct in that.

Q. Now, the Rock Island Motor Transit Company generally operates between what points? Just give us the general picture of the operation.

A. The System?

Q. Of the Rock Island Motor Transit Company, with respect to the points be een which it operates, and the type and character of the operating authority which it holds in various places.

A. It operates from Chicago, Illinois, on the northeast, through Davenport, and it operates down into Peoria, Illinois, through Joliet, La Salle, Peoria, Geneseo, through Wyoming, and on the various lines of the Rock Island Railroad in Illinois. It operates in Iowa from Davenport to Council Bluffs along Highway 6. It parallels the railroad from Davenport through Muscatine, Columbus Junction, Eldon, Ottumwa, along the main line clear down to the Missouri-Iowa line at a point near Lineville, Iowa. It operates north paralleling the railroad from Des Moines to all points to the Iowa-Minnesota State line. It operates up to Cedar Rapids and up what is known as the Decorah branch.

Q. Well, let's first get the operations in which you have unrestricted motor carrier authority.

A. We have unrestricted motor carrier authority on?

Q. Well, on the lines you have enumerated up to date you have unrestricted motor carrier authority, do you not? [fol. 1844] A. No, not in all cases. We do not have on the segment from Peoria to Rock Island, on the Wyoming, what is known as the Rip Track of the Rock Island.

Q. Rip Line?

A. Rip Line.

Q. Of the Rock Island.

Q. So far as you know there is no restriction on that [fol. 1823] service between those points at the present time?

A. That is correct.

Q. Now, what established motor carriers are now serving the Twin Cities and Omaha?

A. We have Watson, Merchants Motor Freight, Union, Union Freightways. I believe that is all to the best of my knowledge. There may be more. I don't know.

Q. Those are all established carriers?

A. Yes, sir.

Q. Substantial carriers?

A. Yes, sir.

Q. And members of your Association use them regularly, do they not?

A. Yes, sir.

Q. In the transportation between those points?

A. Yes, sir.

Q. Now, you are also aware, I assume, that the Rock Island Motor Transit Company has some authority and is seeking authority to have a motor truck service between Kansas City and Omaha, is that your understanding?

A. That is my understanding, sir.

Q. And is it your understanding there was any restriction at any time on that service?

A. Not to the best of my knowledge.

Q. Now, what are the established carriers that operate [fol. 1824] between Kansas City and Omaha?

A. Watson Bros. and Union.

Q. Merchants have any?

A. I believe Merchants. Now, I don't know.

By Mr. Howland:

Q. That is Merchants via Des Moines?

A. That is right, sir.

Q. Does the Santa Fe operate there?

A. Yes, the Santa Fe does operate. Thank you.

By Mr. Fowler:

Q. That is a regularly established service?

A. Yes, sir.

A. In Iowa, other than the White Line we have, which is known as the White Line operation from Des Moines, from Davenport through Des Moines to Council Bluffs and up to Cedar Rapids, that is the only restriction that we have on interstate traffic is the five thousand pound restriction on that particular line. Now, in Minnesota.

Q. Well, now, wait a minute. You have some operations that you acquired out in western Iowa, extending between Atlantic, Council Bluffs and Audubon, Omaha and Harlan and certain of the intermediate points. When were those acquired?

A. Those were acquired under what is known as the Frederickson authority and the Atlantic Motor Freight authority.

Q. And those, all of those rights at the time of the acquisition were without restriction, I believe, that you refer to?

A. That is correct.

Q. Insofar as interstate commerce is concerned?

A. That is correct.

Q. You omitted, I believe, to refer to the line via U. S. Highway No. 163 and 63, between Ottumwa, Iowa, and Des [fol. 1845] Moines, Iowa. That was subsequent, that was an acquisition subsequent to the original White Line acquisition, was it not?

A. That is correct, and it was unrestricted.

Q. It was unrestricted. Now, from Des Moines toward Kansas City on U. S. Highway 69, did the Rock Island Motor Transit Company acquire any authority in there?

A. They acquired what is known as the Clark Truck Line, with operating rights from Kansas City to Des Moines. That had authority into Indianola as the only intermediate point that had in interstate authority between Kansas City and Des Moines.

Q. Now, with respect to the line north of Des Moines, I believe that was the Bell acquisition, acquired in 1938, was it not?

A. That is correct, and it had operating rights between Des Moines and Minneapolis and St. Paul, and practically all intermediate points, except we did pick up some off-line points at a later date.

Q. Now, referring now to the restriction which has been placed upon the volume shipments which the Rock Island Motor Transit Company is permitted to handle in its motor carrier operations under the authority which is now in effect, if I am not mistaken, the original restriction was two thousand pounds, and was later increased to five thousand pounds. It became effective some time in the fall of 1951. Now, I am asking you for matters of which you have personal knowledge. Have there been any instances where any shipper in Omaha has been unable to get service on a shipment in excess of five thousand pounds?

A. The only way I could answer your question would be just through general hearsay, what I have heard.

Q. Then, you don't have any personal knowledge?

A. Actual personal knowledge, no.

Q. Now, is there a merchandise car service available at [fol. 1825] Omaha on rail shipments moving from Chicago?

A. Yes, there is.

Q. In other words, the Rock Island Railroad maintains a daily merchandise car service between Chicago and Omaha?

A. Yes, sir.

Q. Do you know whether that freight physically moves by truck or by rail car?

A. That I do not know.

Q. Now, likewise is there a merchandise car service available on shipments originating at Omaha and destined to Chicago, in other words, in the reverse direction?

A. Yes, sir.

Q. Now, what is the situation with respect to merchandise car service from a point such as Kansas City?

Mr. Howland: To Omaha?

Mr. Fowler: To Omaha.

A. I believe that there is merchandise service between those two points.

By Mr. Fowler:

Q. And I think this record shows the same thing is true between the Twin Cities and Omaha?

Q. But the Bell operation did not include any intrastate authority over that route?

A. No, it did not.

Q. Neither did the Clark?

A. No.

Q. Now, at the time of the acquisition of the White Line Motor Freight, did that acquisition involve all operating authority that the White Line possessed in intrastate commerce?

A. It did, yes.

[fol. 1846] Q. And there were certain portions of the White Line Motor Freight authority which were restricted, as I recall, in the eastern part of the State. Was there some subsequent acquisition there between Wilton Junction, Durant, Stockton and Walcott into Davenport?

A. Yes. That was covered by the purchase of what was known as the Otto Freight Line, Truck Line.

Q. That acquisition of the White Line Motor Freight Company's line originally became effective on or about the 5th of April, 1938?

A. That is correct.

Q. And until August 30, or August, approximately the latter part of August, 1951, was that operation of the White Line Motor Freight continued without restriction so far as interstate commerce is concerned?

A. Yes.

Q. Now, what operations does the Rock Island Motor Transit Company have west of Omaha in a general way, confining your answer now to interstate authority?

A. We have interstate authority from Omaha west paralleling the Rock Island Railroad as far as Goodland, Kansas.

Q. And the principal intermediate points are what?

A. The principal intermediate points are such points as South Bend, Fairbury, Belleville, Phillipsburg, Smith Center, Norton and Goodland.

[fol. 1847] Q. I think you omitted the last one, which happens to be Lincoln.

A. Lincoln, that is right. Then, going southwest we have interstate authority paralleling the entire railroad in Kansas, except that segment from Goodlands to the Colorado line and from Wichita south to the Oklahoma State

A. Yes, sir.

Mr. Howland: You don't mean over the line of the Rock Island Railroad?

Mr. Fowler: No, not yet.

Mr. Howland: All right.

[fol. 1826] By Mr. Fowler:

Q. Now, I don't assume you are aware how that merchandise is physically transported, whether it is by truck or by rail car?

A. That is correct, sir.

Q. Now, you didn't, this wasn't gone into on direct, but you mentioned it aside. I believe you made the statement there are certain points that are not served by any other carrier than the Rock Island Motor Transit involved in this application. Did you make that statement?

A. That is correct.

Q. Will you give me those points, please?

A. Yes, sure. Buffalo, Iowa.

Q. Buffalo. Is Buffalo involved in this application?

A. Yes, sir.

Mr. Fowler: Off the record.

(Statement off the record.)

By Mr. Fowler:

Q. All right. The next one.

A. Columbia Junction, Iowa.

Q. That was Columbus Junction, I believe?

A. That is right.

Q. The next one?

A. Coralville.

Q. The next one?

A. Durant, Earlham, Eddyville, Eldon.

Q. Yes.

[fol. 1827] A. Hancock, Kalona.

Q. Hancock, Kalona.

A. Libertyville.

Mr. Fowler: Libertyville. Off the record.

(Statement off the record.)

line. We cover the entire railroad in Kansas other than those two small segments, which are less than one hundred miles.

Q. Now, on some of that do you hold intrastate authority also?

A. We hold intrastate authority on all of the operations in Kansas without any restrictions.

Q. Now, do you also have some authority, I believe, east and west through Oklahoma City, and to points through there?

A. We have authority from Oklahoma City paralleling the Rock Island Railroad all of the way to Memphis, Tennessee.

Q. And how far west?

A. That is approximately six hundred miles I would judge off hand.

Q. Now, how far west of Oklahoma City, Oklahoma?

A. We do not go west from Oklahoma City, Oklahoma. We have a segment in Texas from Fort Worth to Dallas. We operate in Missouri from St. Louis to Kansas City and from Trenton.

Q. I want to get the points in which you have motor carrier authority as we go along.

A. O. K.

Q. As I understand it you have interstate and intrastate [fol. 1848] operating rights in Nebraska and Kansas over these routes that you have told us about?

A. We have interstate authority in Nebraska and Kansas. There are one or two small segments that are restricted to rail billing in that area.

Q. Now, on your operation east and west from Oklahoma City to Memphis, Tennessee, what is the character of your authority there?

A. We have intrastate authority on truck billing from Oklahoma City to McAlester. It is on rail billing from McAlester to the State line, Oklahoma-Arkansas State line. We have truck billing and rail billing from the Oklahoma-Arkansas State line to Memphis, Tennessee.

Q. That is both inter and intrastate?

A. That is both inter and intrastate.

Q. Now, what about your Dallas-Fort Worth operation?

A. That is strictly a rail billing operation between Fort Worth and Dallas.

Q. And that is separated physically from the other portions of your operation?

A. That is correct.

Q. Now, do you have operating authority between Kansas City and Oklahoma City?

A. We do not.

Q. So that the operation from Memphis, Tennessee, west [fol. 1849] to Oklahoma City is an entirely separate, independent operation?

A. Yes, sir.

Q. And your Dallas-Fort Worth is a separate, distinct segment of operation?

A. Yes.

Q. Now, you started a moment ago to refer to some authority that you have out of Cedar Rapids. I wish you would tell what authority you have there.

A. The authority we have out of Cedar Rapids, north on the branch of the Rock Island which is known as the Decorah branch, is restricted to rail billing, both inter and intrastate. It is an application which we acquired in both intra and interstate commerce by application. It was not a purchase.

Q. Now, in addition to the original White Line authority, I believe at the time, I believe what was actually covered in the White Line Motor Freight authority was the route between Silvis, Illinois, and Omaha, Nebraska, substantially paralleling U. S. Highway No. 6 across the State of Iowa, and with service to Cedar Rapids, Iowa, and Muscatine, Iowa. Do you recall that later, that authority was secured in connection with the White Line authority between Chicago and Silvis for interstate operation?

A. That is right.

Q. At the time of the acquisition, the White Line Motor Freight Company had the grand-father application pending at that time, but there had been a break in that service [fol. 1850] due to the fact there had been a joint operation for a time with the Keeshin Motor Express.

A. That is right.

Q. Now, later in Iowa do you recall there was an acquisition, or acquisitions in the vicinity of Iowa City, Iowa?

A. That was a purchase of a little line that centered around Iowa City. I don't recall the name of it, and then there was an application for authority to cover the branch down to Wellman and Kalona, which was an application there, and that was secured unrestricted, both by truck and rail billings.

Q. That later was extended, I believe, as far as the little town of West Chester.

A. Yes, that is right.

Q. Now, you recall an acquisition of operating authority between Muscatine, Iowa, and Clinton, Iowa, by way of Davenport?

A. Yes. That was what is known as the C. D. & M.

Q. Clinton, Davenport and Muscatine?

A. Yes. That was a suburban and truck certificate owned by the Suburban Transit Company.

Q. By the electric?

A. The electric line.

Q. —line out of Davenport?

A. Yes.

Q. And in conjunction—strike that.

Q. The original authority between Davenport and Ot- [fol. 1851] tumwa and between Ottumwa and Des Moines was acquired at one time by application to both the Interstate and the Iowa State Commerce Commissions, was it not?

A. Part of that was purchased and part of it was by application. It was purchased from here to Ottumwa.

Q. Now, wait a minute. Don't you remember the Burlington purchased it and we couldn't buy it from the Burlington?

A. Yes, that is right. You are right. That was by application, I beg your pardon. It slipped my mind.

Q. That was the subject of separate litigation, wasn't it?

A. That is right. We attempted to purchase it, and then we couldn't get together with them.

Q. All right. Now, Mr. Peterson, you have some rights over in Illinois, between Chicago and Davenport via U. S.

Highway 6, I believe, but can you perform any interstate operation over that route?

A. Only——

Q. I mean beyond Davenport.

A. Only in broken up segments, as there is a key point at Chicago, Joliet, La Salle, the combined Tri-Cities, and Peoria.

Q. Now, Mr. Peterson, is the operation over the so-called Frederickson and White Line routes that are involved in this application, what type and character of territory is involved there, so far as the Rock Island Motor Transit Company's service is concerned, as conducted in the past? [fol. 1852] A. That has been the very heart of the Rock Island Motor Transit Company. The heart of it is from Chicago, the Tri-Cities, Des Moines, and north and south to Kansas City, Minneapolis. That is the heart of the operation, and the whole operation is swung around that particular operation.

Q. Now, of course, Chicago is the eastern terminus, and is not only the point of origin of an immense quantity of traffic, but is also a point of interchange with carriers from the east, north and south, in addition to the originating tonnage in Chicago.

A. Chicago probably has more originating tonnage and more interline traffic than any two points or three points on our entire System.

Q. Well, or for that matter anywhere in the United States almost, isn't it?

A. I think you could go so far as to say it is greater than any place in the United States.

Q. Now, what—a moment ago in referring to the operations of the motor transit company, you referred to the fact that the heart of your operation was to Des Moines and thence north and south. How about the operation into Omaha?

A. Well, if I left Omaha out, I left it out by mistake because the heart of the operation is from Chicago, through the Tri-Cities, Des Moines, to Omaha, and that is really the heart of the operation, period.

[fol. 1853] Q. Now, Mr. Peterson, we have had evidence in this record with respect to what has been referred to as

peddle service, or peddler service by truck. In connection with this operation which you have been conducting what, if anything, has been done in the way of establishing services to the smaller intermediate points as compared with the service rendered by the White Line Motor Freight Company in this territory?

A. The Rock Island Motor Transit Company on the territory involved in this application serves every town which it was authority to serve daily in both directions.

Q. And some of that service you say daily. Is it daily except Saturday and Sunday?

A. Daily except Sunday in some cases and daily except Saturday in some cases.

Q. And have you endeavored to perform a complete transportation service, rendering transportation service to every community on the routes on a daily basis?

A. That has been our policy, and it has been, our physical has been to render a daily service to all of the points we operate in regardless of the size.

Q. And for that purpose have you established these peddler runs out of the Tri-Cities, out of Iowa City, out of Des Moines, and out of Omaha that we have had in evidence concerned here in this record?

A. Yes, sir, that is right.

[fol. 1854] Q. Now, generally with respect to peddler service where you have what might be referred to as a turn-around service, for instance, you take this operation from Davenport west to Atalissa, Iowa, on U. S. Highway 6, where the operation goes out and the truck turns and comes back; now, what is the fact as to the comparative revenues to be derived from service of that character compared with a point-to-point service?

A. Well, that is your typical short peddler operation. You may start out today with what you would call a normal full load anywhere from fifteen to seventeen thousand. Tomorrow you might drop down to five or ten thousand. This truck, when it starts out from Davenport, if it is full loaded, out about not to exceed ten miles would be Walcott. You start to unload, and by the time you got half-way to Atalissa you are probably at least half unloaded, maybe more, and by the time you got to Atalissa you would be

practically unloaded, so you are actually driving, an average peddle operation, you are actually driving from approximately sixty-six per cent of your total mileage empty so far as revenue purposes is concerned.

Q. Now, on these peddler runs which you have established, what type and character of freight do you handle on these peddler runs across the State of Iowa?

A. Well, you can just look at it this way. The average town, the average little town such as Atalissa, West Liberty, any of those average towns population-wise, they will take [fol. 1855] just so much furniture, mattresses, enameled ware, population-wise, as the City of Des Moines will take. However, they don't get it in sufficient volume so they can get it in carloads, and consequently these little peddler runs get a large proportion of the bulk freight which doesn't move by truck into the large centers, that moves by carloads into the larger centers to a great extent, so you get your bulk with a certain amount of depreciated freight, and in a normal load you just can not get the tonnage into those loads because you don't have the space to get it in.

Q. Well, in other words, the service that you perform to these smaller, intermediate points involve not only the handling of abstract quantities of freight, which is less desirable from the revenue producing standpoint, but you also are unable to operate more than about one-third of the way with anything like a full load?

A. Like a full pay load, that is correct.

Q. Now, in connection with this operation, the operation of these peddler runs, what have you done with respect to the type and character of billing of freight that is included? You handle motor truck freight, as I understand it, moving on motor truck billing, and you also handle some other types of freight, don't you?

A. We handle the combination on these peddler runs, the motor billed freight and the rail billed freight.

Q. And you also put on those runs the intrastate traffic? [fol. 1856] A. Yes, we have both the intrastate and the interstate authority in this area, and if you didn't have the combination of the interstate, the intrastate, the truck billing, and the rail billing, you just couldn't even begin to get started to maintain the cost of operation.

Q. Now, is that service that you have told us about out of

Davenport on the run to Atalissa and return, duplicated at these other points such as Iowa City to Victor, to some extent by your peddler service out of Des Moines both east and west, and by your peddler service out of Omaha?

A. Yes, there is a series of peddler services on Highway 6.

Q. Now, why don't you perform that service with trucks that are going all of the way through, or practically through, from Davenport or Rock Island to Des Moines, and from Des Moines to Omaha? Why is it necessary to run these peddle runs?

A. Over a period of years the Rock Island Motor Transit Company has been giving excellent service to the communities on Highway 6. Consequently the merchants on Highway 6, the customers of the merchants on Highway 6 have come to realize they can go into any small store in any town on Highway 6; they can buy their merchandise there just as readily as they can at Des Moines, Iowa City, or the larger points. They have been building up a trade. These towns are good towns today because of the fact they have good transportation. There is a considerable amount of volume over the period of years. The volume has been such [fol. 1857] to these little towns that you will have a full truckload just going from Davenport out to Atalissa. Now, I merely make this observation. We are performing that service. We are performing the service at a loss, but we are still performing it, and yet it is of necessity that we have all of these peddler runs to provide this service. The tonnage is there to these little towns but they are all short peddler runs, and the results are the same on all of them. If we didn't have the combination of rail, the intrastate and the interstate, we couldn't even get started, but at that they all show a loss in operations.

Q. Now, would you be able to perform peddler service to these towns off of your through trucks?

A. No, you can not. That just isn't feasible.

Q. There isn't enough. That is you couldn't, if you have a through truck, why you have got enough of a load there. You couldn't put on all of these little towns?

A. No. Our through truck service is the only thing that makes us any money and helps us carry the load on these peddlers.

Q. All right. Now, I want to ask you a little bit about the method of handling a shipment, we will say, that is destined on—first, let me ask you this. Strike that out. Let me ask you this. On these small towns located on and adjacent to Highway No. 6, what is the fact as to whether other motor carriers who may have authority to operate in this territory render a service comparable in any respect with that of the Rock Island Motor Transit Company?

[fol. 1858] A. There isn't any other truck line on Highway 6 that even begins to render any service even resembling a comparable service of the Rock Island Motor Transit Company.

Q. To these——

A. To these towns on Highway 6 between Davenport and Council Bluffs.

Q. Now, if this service were to be discontinued by the Rock Island Motor Transit Company, what service would be available on motor carrier billing to serve these intermediate towns such as Victor, Ladora, Atalissa, Durant, and Wilton?

A. There is no carrier that has authority to serve all of those towns. There are carriers that have authority to serve some of them but do not serve it.

Q. They do not render any regular service?

A. They do not render any regular service whatsoever.

Q. What, in your judgment, would happen to those towns so far as having a motor carrier service in the event that the Rock Island Motor Transit Company was denied authority to operate on motor carrier billing?

A. Well, I don't believe that these towns would ever get any regular motor carrier service again. I don't think any truck line is going to take on the responsibility of giving peddler service with the high costs that they are faced with today. It just wouldn't be good business for them to [fol. 1859] do it. If they did do it they would be draining their line-haul operation to sustain their peddler operation.

Q. You referred to the costs that are being incurred today. Has there been any recent change in that cost picture?

A. Effective February 1st the over-the-road, the new over-the-road contract went into effect. This contract will increase the labor costs on over-the-road, just for that one

over-the-road contact, to the best of my ability to judge, approximately sixteen per cent on the over-all picture.

Q. And that increase, I believe, has been approved by the Wage Stabilization Board?

A. The contract has been approved by the Wage Stabilization Board.

Q. Now, with respect to other labor costs, are there increases in wages pending by other classes of employees?

A. Yes.

Q. Such as your mechanics?

A. The mechanics' contract goes into effect tonight with an increase, a very sizable increase. The Kansas City contract went into effect as of, I think, the first of March, and that was settled Saturday night, and that has a far greater increase than the over-the-road contract.

Q. That was the local Kansas City?

A. That was the local Kansas City contract.

Q. Now, what about your Des Moines?

[fol. 1860] A. The Des Moines local went into effect, I think, February 1st, as I recall, or February 15th, I believe, and all of these labor contracts on the over-the-road, the dockmen, pick-up and deliverymen, have gone into effect around February 1st and later, and the increases have been terrific.

Q. Now, even some of those contracts are to continue in effect for some period of time with some further increases, are they not?

A. Yes. In most cases they are three year contracts, with increases proportionately at the end of the first year, and at the end of the second year.

Q. What is the fact as to the ability of, in your judgment, of the motor carriers to continue to operate under those contracts in this territory under present rates?

A. Well, if the operators don't get some very sizable increases in revenue in the immediate future, it is my best judgment there is going to be a lot of them drop by the wayside before the first of next year.

Q. Now, Mr. Peterson, prior to the imposition of the five thousand pound restriction in, I believe, the latter part of August, 1951, on the White Line and Frederickson routes across the State of Iowa that are involved in this hearing,

did the Rock Island Motor Transit Company have any maximum weight restriction?

A. We did not.

Q. And prior to that time had you been handling some [fol. 1861] truckload business?

A. We had, yes. We had wide-open authority, and could handle both truckloads and volume shipments.

Q. Now, do you have some figures available on the number of truckload shipments handled on the Rock Island Motor Transit System as a whole during different parts of the year 1951?

A. I do, yes.

Q. Will you give us those figures, please?

A. In the first quarter of 1951 we handled seven hundred fifty-eight truckloads. In the second quarter we handled six hundred forty-four.

Mr. Fowler: How much?

Mr. Howland: Six hundred forty-four.

A. In the third quarter we handled four hundred fifty-two.

By Mr. Howland:

Q. Now, the third quarter includes the months of July, August and September?

A. Yes, and in the fourth quarter it dropped to two hundred sixty-four, two hundred sixty-four.

Q. Now, that is the operation over your entire System as I understand it?

A. Yes, sir.

Q. And is there any particular explanation for that drop between the second quarter, the volume in the second quarter and the volume in the fourth quarter?

A. Yes. That was due entirely, in my opinion, to the [fol. 1862] restrictions, in fact it was due entirely to the restrictions that were imposed under the White Line authority and under the temporary authority.

Q. In this territory generally what is the fact as to whether the fall months are heavy traffic movement months, both less than truckloads and truckloads?

A. September and October generally are our two best months.

Q. Now, Mr. Peterson, has the elimination of the shipments above five thousand pounds and the elimination of truckload movements affected the operations of the Rock Island Motor Transit Company in this territory?

A. It has affected it to a very great extent. It has just even the restrictions as are, has cut the heart out of it and as due to these restrictions, has just made it impossible to operate at a profit.

Q. Well, now, I wish you would take a shipment, say of five hundred pounds, and tell us the differences in the handling which must be given a shipment of five hundred pounds say moving from Moline, Illinois, moving into Des Moines, Iowa, as compared to a shipment of ten thousand pounds, or a truckload shipment. Just let's take our five hundred pound shipment from Moline, Illinois, to Des Moines, Iowa, and just give us the physical operation, the way that would be handled.

A. Well, a shipment of five hundred pounds originating at Moline, Illinois, would first be put on a pick-up truck.

[fol. 1863] Q. That is at the consignor's place of business?

A. That is at the consignor's place of business, and would move on a pick-up truck to our dock at Davenport. At our dock at Davenport it would be checked off of the pick-up truck and then it would be checked on to a line-haul truck at Davenport.

Q. First, it would have to be taken from the pick-up truck and unloaded on the dock, and then it would have to be placed in with the freight for loading to Des Moines?

A. That is correct. Your pick-up truck naturally would be unloaded and placed on the dock, and then checked as it is unloaded. It would have to be checked back on to the line-haul truck as it was loaded back. And at Des Moines, it would come into Des Moines. The truck would be unloaded here. It would be loaded on the dock, on the floor of the dock and be checked and loaded into a pick-up truck from the dock and taken to the consignee's place of business, where it would be rehandled again. You would have one, two, three, four, six handlings in that type of a ship-

ment. Now, if that was a ten thousand pound shipment, in all probability, in fact it would be bad business if it wasn't handled on a line-haul truck, picked up at the consignor's place of business, checked there, taken past——

Q. Now, wait a minute. In other words, if it was a ten thousand pound shipment you would take the line-haul truck with a pick-up and delivery driver direct to the consignor's place of business?

[fol. 1864] A. Yes, sir, your line-haul truck would be taken right to the consignor's place of business. It would be loaded right in the line-haul truck, bypass the Davenport terminal altogether as far as handling or checking. It would be taken, bypass the Des Moines terminal altogether for any handling or checking, and taken right to the consignee's place of business in the line-haul truck and unloaded.

Q. In other words, you would eliminate a very substantial part of your pick-up and delivery expense per one hundred pounds?

A. You would eliminate at least twenty-five to fifty per cent of your cost of picking up at both ends. You would eliminate one hundred per cent of your terminal costs at both terminals.

Q. And is the cost of handling freight across the dock one of the substantial items that enters into the operating costs of a motor carrier operation that is handling smaller volume shipments?

A. Yes. Your cost across the dock in some instances is as much as your pick-up and delivery costs.

Q. And, in some instances, the combined pick-up and delivery cost plus your cost of handling across the dock at both ends, practically equals or exceeds the revenue from your shipment, does it not?

A. On your short haul traffic it exceeds the revenue on your shipments in lots of instances.

Q. Now, Mr. Peterson, as I understand it, when you have [fol. 1865] a shipment of ten thousand pounds, or a truckload, you send a line haul truck to the point of origin, and with a pick-up and delivery driver, and the vehicle is loaded?

A. That is correct.

Q. The semi-trailer is loaded, but you have a tractor unit on it?

A. That is correct.

Q. And when that loading is completed, if it is less than a truckload, the pick-up driver brings it back to the dock at the point from which it is to depart, and in the Moline shipment it would move over to the dock at Davenport?

A. The dock at Davenport, and if we have any additional freight there for loading for Des Moines, it would be placed on this truck to bring it up to its maximum loading capacity.

Q. But you wouldn't unload that shipment from Moline?

A. Oh, no.

Q. From the truck if it was, say, ten thousand pounds?

A. No, we would not.

Q. Now, about what is the average cost of handling a shipment, what is the average cost per one hundred pounds of handling these small volume shipments across the dock at Des Moines or at the Tri-Cities?

A. Our average cost last year for a twelve month period at Des Moines was 13.96 cents per hundred.

Q. And that would be merely the dock handling cost?

A. Merely the dock handling cost. At Davenport it was 10.44 per hundred.

[fol. 1866] Mr. Fowler: 13.96 and what was the other?

Mr. Howland: 10.44.

A. 10.44.

By Mr. Howland:

Q. And I take it the larger volume of small shipments that have to be handled across the dock, the larger proportion your dock handling expense would be to the expense of operation?

A. That is correct, and you have another factor in there which is of very vital importance. If you have a group of peddler runs this freight on all peddler runs has to be assembled on the dock and stay there until it all gets in. Then it has to be dug out and loaded in station order, and that is one of the factors that enter into your dock handling costs in most of our places because we have peddler runs running out from practically all of our major points.

Q. Now, in addition to the cost of handling across the dock, what is the fact as to whether the handling of small shipments of say five hundred to one thousand pounds, the

pick-up and delivery cost on those shipments compared with the pick-up and delivery costs on a shipment of say ten thousand pounds or a truckload?

A. My best judgment is your pick-up and delivery costs on any shipment under one thousand pounds would be probably twice as great as it is on truckloads, and possibly on volume shipments in the category between one thousand and a truckload.

[fol. 1867] Q. About what have your pick-up and delivery costs been running at Des Moines and at Davenport?

A. The twelve month average of pick-up and delivery costs at Des Moines was 12.54, at Davenport was 10.43, and at Chicago was 19.48.

Q. That is merely your pick-up and delivery cost?

A. That is merely our pick-up and delivery cost.

Q. And doesn't include the handling across the dock?

A. That is correct.

Q. Loading and checking?

A. And this doesn't include the terrific increases which have come into play this year.

Q. Those are 1951 figures?

A. These are 1951 figures sizingly increased when these wage increases come into effect.

Q. Now, Mr. Peterson, with these increased costs, and with the restriction of five thousand pound maximum on the Rock Island Motor Transit Company, in your judgment as a truck operator, will it be possible to continue anything like the present volume, will it be possible to continue anything like the present service that you are rendering if the restrictions remain?

A. It will not.

Q. Now, the figures of the operation of the Rock Island Motor Transit Company, as put in by Mr. Cole, show some very substantial deficits, and I believe those figures have [fol. 1868] not included all of the increases that you have told us about that have come into the picture since February 1, 1952, is that right?

A. That is correct.

Q. And would, in your judgment, any increase that the carriers are likely to receive, or that would be within reason, change that picture as to the ability of the Rock

Island Motor Transit Company to continue to give this level of service?

A. No, it would not for this reason, that these restrictions cut the heart out of our operation. The overhead operation has been helping carry the load on the peddlers, and if we can not continue to get the volume shipments, the truckload shipments, to help balance our operation and help carry the load, we just could not stand to continue to give all of the peddler service we are giving. We would have to reappraise our operation and cut it to the minimum. We just couldn't take the loss that we are taking, and I can see no possibility of, in any way, to cut that loss, except cut the operation into the quick.

Q. Now, we were talking a bit ago about, about your short haul service where you have traffic of the type and character of these smaller volume shipments, say five hundred to one thousand pounds, what is the fact on your short haul, whether it be interstate or intrastate, as to the cost equalling or exceeding the revenue that you get from the transportation service, say on a shipment, say take for example, a shipment moving a distance of thirty-five or forty miles, a five hundred pound shipment, about what [fol. 1869] would be the average revenue for such a shipment?

Mr. Fowler: Well, now, wait a minute. Are you, Mr. Howland, including in your question the influence of the intrastate movement as well as the interstate?

Mr. Howland: I am speaking about an interstate movement of approximately forty miles in length, if he knows what the revenue would be he would get out of such a shipment for the purpose of illustration.

Mr. Fowler: Well, Mr. Examiner, I am not going to object to the line of testimony. I just want to note for the record that if it includes the influence of the intrastate operations it could develop an entirely different picture than if it was, that was confined to the influence of the interstate operation.

Exam. Carpenter: I think he confined it to the interstate operation.

Mr. Howland: I am confining it now to the interstate operation.

By Mr. Howland:

Q. Do you know about what the average revenue you would get on traffic moving interstate, say from Rock Island down to a point like Atalissa, or West Liberty, a distance of thirty-five or forty miles?

A. The interstate movement, if it was of any distance on the mileage basis, would be less than the intrastate revenue, and on that short of an operation your pick-up, your terminal costs, and your pick up and delivery costs in ninety [fol. 1870] per cent of the instances would exceed your total revenue, and you do your line-haul work for nothing on so many of these peddler runs, and on your short peddler runs, we have peddler run after peddler run on the short segments where the pick-up and delivery cost at both ends exceed the gross revenue, and you haul it in your truck from origin to destination free of charge, and in some places, you even pay for that extra.

Q. That is in the event you have a low rated freight that takes a low rate. Your pick-up and delivery costs per one hundred pounds is just as much for that as it is for any other type or character of freight, is it not?

A. That is correct.

Q. And if you have a shipment where your pick-up and delivery cost at each end approximates twelve to fourteen cents per one hundred pounds, and your cost of handling across the dock at each end approximates twelve to fourteen cents per one hundred pounds, you don't have much left out of your charge, your rate, to pay for the line-haul, the actual line-haul transportation?

A. On the short hauls you don't have anything left.

Q. Now, Mr. Peterson, I want to make inquiries with respect to the relations between your company and the Rock Island Railroad. The officers of the Rock Island Motor Transit Company, the President is Mr. J. D. Farrington?

A. That is correct.

Q. The Vice President of the Rock Island Motor Transit [fol. 1871] Company is also a railroad officer, is he not?

A. Yes, Oscar Swanson is one of the Vice Presidents.

Q. And you are General Manager for the Motor Transit Company?

A. Yes.

Q. Do you have anything to do with the operation of the railroad service?

A. I do not.

Q. And do your traffic forces solicit any business for the Rock Island Railroad?

A. They do not.

Q. And, so far as you have been advised, have you ever found that the traffic forces, soliciting forces, of the Rock Island Railroad are getting any business for the Rock Island Motor Transit Company?

A. They do no soliciting for the Rock Island Motor Transit Company.

Q. Now, all of the capital for the Rock Island Motor Transit Company has been provided by the railroad, either by purchase of common stock, or in the way of advancements by loans or otherwise?

A. That is correct.

Q. And I believe you have a loan made by one of the Chicago banks, the Rock Island Motor Transit Company has at the present time?

A. Yes.

Q. Now, while it is true—I will withdraw that.

[fol. 1872] Q. You occupy the facilities of the Rock Island Railroad, owned by the Rock Island Railroad, in the City of Chicago? I believe I am correct in that.

A. Yes; we do.

Q. And that freight house is located down near Twelfth Street or Roosevelt Road, I believe?

A. It is known as the Wells Street Freight House, right near Roosevelt Road.

Q. Do you happen to know immediately before the Rock Island Motor Transit Company took over that building, it was used by the Rock Island Railroad, or was used by somebody else?

A. Well, when we took it over it was used by the Keeshin Truck Lines.

Q. Now, you have certain facilities in Davenport, I believe, that are owned by the Rock Island Railroad?

A. Yes, we occupy the east end of the Davenport Freight House. We also occupy a garage building which was pur-

chased by the Rock Island Railroad, which we lease from the Rock Island Railroad.

Q. And do you know whether before the Rock Island Motor Transit Company took over that Davenport Freight House, whether all of that freight house was in fact occupied by the Rock Island Railroad for its own operations?

A. Well, when we took it over there was only about one-fifth of the building was being occupied by the Rock Island Railroad. The rest of it was just standing empty, accumulating dirt and filth.

[fol. 1873] Q. Down here at Des Moines you have a building that is owned by the Rock Island Railroad, I believe?

A. Yes.

Q. Now, before the Rock Island Motor Transit Company, when you started there, what is the fact as to whether that building was leased out and occupied by concerns other than the railroad?

A. Well, the part that we took over right to begin with was empty. There was nothing in it. The part adjacent to us was occupied and rented at least by the Miller Flour and Feed, and the part adjacent to that toward the east was occupied by the Universal Carloading Company. However, the part we took over was empty and was not in use by anybody.

Q. And what is the fact out at Omaha?

A. We use the south end of the Rock Island Railroad Freight House, which was empty and unoccupied at the time we took it over.

Q. Now, generally where you occupy and use facilities owned by the railroad company, on what basis has the rental been fixed?

A. To the best of my knowledge, it is my understanding that any rental is based——

Mr. Fowler: Now, just a minute. I am going to object to that. May I inquire of the witness?

Exam. Carpenter: You may.

By Mr. Fowler:

Q. Are these leases in writing?

A. These leases are in writing.

[fol. 1874] Mr. Fowler: I am going to object on the ground it is not the best evidence.

Mr. Howland: The question calls for the basis on which the rental was fixed.

Mr. Fowler: And the objection goes to the competency of oral testimony when it appears the documents are in writing.

Exam. Carpenter: Are the leases available?

A. They are. I think they are in the Chicago Office. However, there might be some here in the Des Moines Office. I am not sure.

Mr. Fowler: Mr. Examiner, that becomes a very important issue in this case so far as the protestants are concerned.

Mr. Nolan: Mr. Examiner, that doesn't go to the basis of the leases, the fact they are in writing. That doesn't go to the question.

Mr. Fowler: Mr. Nolan, the facts about which you are concerned are in writing and in contract form. You are supposed to produce the documents instead of trying to show what is in them by oral evidence.

Mr. Nolan: That can be shown by oral evidence.

Mr. Howland: I will withdraw that and ask this question.

By Mr. Howland:

Q. What has been the practice and custom which has been followed in arrival at the rentals in all of the leases or contracts that you have between the Rock Island Motor Transit Company and the Rock Island Railroad?

[fol. 1875] Mr. Fowler: That is objected to for the reason that it calls, it is not the best evidence, the leases being in writing, are the best evidence of what they contain.

Mr. Howland: Now, we might be required to produce those leases, and I don't think we will have any objection to doing so, if the Examiner please, but it has never been my understanding that is the rule with respect to the best evidence.

Mr. Fowler: Now, Mr. Howland, if you are going to produce the leases, I have no quarrel with you at all.

Mr. Howland: Well, we will probably produce them in the end.

Mr. Fowler: The record is all right for me. I shall ask for the leases, and unless they are produced I certainly will object against this type of testimony, and I would like to have the record show that I do object to them unless the leases are produced.

Exam. Carpenter: I will permit the witness to answer.

A. It is based, to the best of my knowledge on six per cent on the depreciated value of the property involved.

By Mr. Howland:

Q. Now, in one or two instances you have buildings, I believe, that were erected or modernized for the use of the Rock Island Motor Transit Company?

A. For terminals, only one at Kansas City. For a garage, only one, and that was at Des Moines, and we own, the motor subsidiary owns the garage at Des Moines but it stands on railroad land.

Q. Now, outside of the use of these freight buildings, or [fol. 1876] freight house buildings and warehouses of the Rock Island Railroad, what has been the fact as to whether the facilities that you use in your transportation business are purchased and owned or leased by the Motor Transit Company as any other commercial enterprise?

A. Other than the freight docks and the one garage, all of the other facilities are leased from outside individuals.

Q. Now, you have your own shop and shop equipment, have you not?

A. We have maintained shops at Chicago, Davenport, Des Moines and Hutchinson.

Q. And those are entirely independent of any railroad shops?

A. That is correct.

Q. And you have your own traffic and tariff department, which is independent of the railroad traffic and tariff department?

A. The Rock Island Motor Transit Company is entirely independent and separate from the railroad in every respect except, I, in between myself and Mr. Farrington, as President of the Railroad, I run the motor transit exactly like a truck line.

Q. And in that respect I wish you would tell us what the policies of the Rock Island Motor Transit Company have been with respect to rates, with respect to negotiations for labor contracts, and matters of that sort. Have you cooperated with the motor carrier industry in such matters?

A. The policy of the Rock Island Motor Transit Company [fol. 1877] has been to maintain and create a healthy truck industry. We have cooperated with them in every way. We have cooperated with them in rates. We have cooperated with them in labor contracts. We have taken every strike right down the line. I have just finished one of three weeks in Kansas with the truck operators. Our policy has been to cooperate in every way we could cooperate with the truck industry.

Q. And certain officers of the motor transit company have devoted time and effort to motor carrier matters in an organization way?

A. We have devoted time. Mr. Hitchen has spent an enormous amount of time in the motor carrier industry.

Q. What services?

A. He has been President of the Midwest Freight Bureau at Kansas City. When the Manager was off, he run it for several months, I don't remember how many months, but he run it for the motor carrier industry for several months, and not only he, but the entire organization has gone out of their way to cooperate and help out.

Exam. Carpenter: Off the record.

(Discussion off the record.)

By Mr. Howland:

Q. Now, has there been any time when the Rock Island Motor Transit Company has endeavored to put the other motor carriers in this territory out of business?

A. There has never been a time, at any time.

[fol. 1878] Mr. Fowler: Just a moment. Just a moment. That is objected to as immaterial to any issue involved in a convenience and necessity case.

Exam. Carpenter: I will overrule it.

A. There has never been a time when the Rock Island Motor Transit Company did not go out of its way to help the truck industry, help the truck operators that operate right down Highway 6. We have cooperated with them in every conceivable way we can cooperate with them, and we have never made one move to put anybody out of business.

By Mr. Howland:

Q. I take it you have been in competition with these other motor carriers that are serving the same general territory?

A. We have been in competition with them, but the Rock Island Motor Transit Company has been clean competition.

Q. And have you, with one or two exceptions, been active in the membership of the Iowa Motor Truck Association and transportation bureaus?

A. Mr. Fowler: That is objected to on the ground it is immaterial to any issue in this proceeding. If I understand this correctly we are trying a certificate of convenience and necessity case. I can't control the scope that the Examiner is going to allow the record to take, but this is certainly immaterial to any issue before the Commission in this proceeding, and objected to for that reason, it is immaterial.

[fol. 1879] Exam. Carpenter: Overruled.

A. Yes, we belong to the Iowa Motor Carrier Association. We belong to all of the tariff groups that cover the territory in which we operate. The Midwest Bureau at Kansas City is the main bureau.

Mr. Howland: I think that is a good breaking point.

Exam. Carpenter: All right, we will adjourn for lunch until 1:45 p. m.

(Whereupon at 12:10 p. m. a recess was taken until 1:45 p. m. of the same day.)

1:45 p. m.

AFTERNOON SESSION

Exam. Carpenter: We will proceed.

W. F. PETERSON resumed his testimony as follows:

Direct examination (continued).

By Mr. Howland:

Q. Mr. Peterson, did you at the noon hour go through your files to see if you had the lease agreements between the Rock Island Motor Transit Company and the Rock Island Railroad?

A. Yes, I did.

Q. And have you produced here the contracts, copies of which are in your possession?

A. That is the copies there. The signed document is in the Chicago Office, but that is an exact duplicate copy of [fol. 1880] the original signed document in every instance.

Q. And Des Moines, Davenport, Chicago, and Atlantic, Iowa?

A. If there are any missing it is just because they haven't returned it to me. They are supposed to be there, and I believe they are all there.

Q. But you haven't checked over definitely to make sure?

A. No, I haven't checked definitely.

Q. To see that is the situation. All right, Mr. Peterson, I was about to discuss with you, ask you some questions concerning the points at which the Rock Island Motor Transit Company performs the pick-up and delivery service for the Rock Island Railroad. Do you perform pick-up and delivery service for the Rock Island Railroad at certain points?

A. We do, yes.

Q. And do you have a contract with the Rock Island Railroad for the performance of that pick-up and delivery service in most instances?

A. I would say that if there isn't a contract on file, it

has just been overlooked because they won't pay us for performing the service unless we have a contract on file.

Q. And you have produced here a volume of documents which are indexed from A to W inclusive. Is that your file of contracts between the Rock Island Motor Transit and the Rock Island Railroad Company covering pick-up and delivery service at various points?

[fol. 1881] A. Yes, that is the file on it, and if they aren't all there, one or two might be in the records some place and not be in it. They should all be there, and I believe they are all there.

Q. Now, those contracts are, of course, in writing, and what is the fact as to whether they are in the form customarily used by the Rock Island Railroad for the performance of pick-up and delivery service with cartage concerns at various stations?

A. It is the same form that the railroad uses for all of their cartage companies.

Q. Now, you do perform pick-up and delivery service in Des Moines, I believe?

A. We do, yes.

Q. For the railroad, but you don't do it in Chicago?

A. We do not.

Q. You do it at Omaha?

A. Yes, we do it at Omaha.

Q. And some other points?

A. We do it. We have contracts at one hundred four different points.

Q. And have those contracts at the major points been revised from time to time as changes have occurred in the cost of performing that service?

A. At the major points, yes. At some of the small points where there isn't enough volume to make any difference, why we just let them stand. At all of the major points [fol. 1882] they have been revised from time to time.

Q. Now, generally, in connection with services which are performed by the Rock Island Motor Transit Company for the Rock Island Railroad, the transportation generally on those territories on which the motor transit company has only authority to transport shipments on rail billing,

what has been the basis on which the Rock Island Motor Transit Company has been compensated?

A. Where we only have rail billing there, the motor subsidiary is paid on a mileage basis. That is they pay us for the operating mile.

Q. And how is the mileage figure arrived at in those instances?

A. Well, they were arrived at on as nearly a cost basis as we could arrive at. They would give us a slight profit, but it is usually just a little bit over cost.

Q. And in this White Line and Frederickson territory, which is the subject of this application, what basis of compensation does the Rock Island Motor Transit Company receive for handling shipments for the railroad?

A. It is based on the one hundred pound basis.

Q. And is that a uniform basis irrespective of the distance the shipment is transported?

A. Yes. That is just an average revenue, an average rate.

Q. And the figure at the current rate on that is what?

A. Fifty-five cents a hundred.

Q. Now, generally where you perform service for the [fol. 1883] Rock Island Motor Transit Company in the nature of pick-up and delivery service, what is the basis on which the arrangement has been made?

A. In the origin, at the time we took it over, in every instance we took it over at the rate that the contractor was getting at that particular point. That has been revised at various places upward as labor, wage rates, and costs went up, but we always took it over at the rate that the railroad was paying at that particular time.

Q. And this arrangement of fifty-five cents per one hundred pounds, does that, is that based on costs, or is that a figure used as an average figure?

A. Well, it is a figure based more or less on costs, but it is based, it is figured on the basis of taking care of, to an extent, peddler operations, and it is plenty high.

Q. That is on short haul particularly?

A. Short haul traffic. It is in fact too high.

Q. All right now, with respect to the, I don't believe the record shows the number of items of equipment that

the Rock Island Motor Transit Company currently owns and uses in its operations. Can you give us that for the record?

A. We have two hundred twenty-eight tractors, one hundred fifty-two trucks, three hundred three trailers, four service trucks, and four busses, a total of six hundred ninety-one units of equipment.

Q. Now, Mr. Peterson, prior to the effective date of the [fol. 1884] present restrictions, what railroad billed freight was the Rock Island Motor Transit Company handling out of Chicago?

A. We were handling all of the rail billed freight out of Chicago to all of the points in Illinois that we could serve without running into the key point restrictions.

Q. And were you handling any rail billed freight westbound from Chicago to Davenport, Iowa City, or those points?

A. At times we did and at times we did not westbound. It would depend to a great extent, the availability of cars.

Q. Now, what about your eastbound traffic out of Des Moines on rail billed freight?

A. We handled all of the rail freight moving eastbound from Denver, Minneapolis and Omaha. All of that freight was assembled at Des Moines, Omaha, and Rock Island, all of these places, and we hauled it back to Chicago.

Q. That is the less than carload freight?

A. Less than carload freight, yes.

Q. And what is the fact as to the general movement of your motor carrier freight? Was it heavier out of Chicago westbound than it was eastbound?

A. Yes. The flow of traffic out of Chicago, as far as this territory is concerned, is definitely westbound. You will have, you will have far more traffic moving westbound than you do eastbound unless you go into exempt commodities. Exempt are packing house products and items of [fol. 1885] that nature, of truckloads of poultry, various things of that kind.

Q. Is it desirable in the motor carrier business to balance your operations as far as possible?

A. It is not only desirable. It is an absolute necessity to balance your operation. You haven't got a chance if

you can't balance your operation. You just can't have a profitable operation without it. Your operation must be as nearly balanced as it is possible to do.

Q. Now, as I understand it, prior to the effective date of these restrictions you were handling the less than carload freight traffic for the railroad between Omaha and Des Moines into Chicago?

A. We were, yes.

Q. And due to the key point restrictions was any change made in that at the time the restrictions became effective?

A. We had to discontinue that operation.

Q. And that is now being handled in boxcar service by the Rock Island on eastbound L. C. L. freight?

A. That is correct.

Q. And what has been the result of that operation so far as the Rock Island Transit's business is concerned?

A. Well, there would be a certain amount of that eastbound movement of L. C. L. on the railroad. It is far lighter than you would imagine. It would never run over two trucks a day. Eastbound out of Des Moines it would [fol. 1886] probably run a truck and a half. The bulk of our eastbound movement was truckload freight we were able to scare up to balance our operation.

Q. Now, with no truckload freight and without being able to handle this less than carload freight on rail billing moving east from Des Moines, what has been the result as to running trucks empty eastbound out of Des Moines?

A. Well, we have run anywhere from three to five times as many empty trucks eastbound since October 1st last year as we ever did before.

Q. And is that one of the factors that contributes to the operating deficit that has been shown in recent months?

A. It is very definitely one of the factors.

Q. And if you had unrestricted motor carrier billing, and the key points were removed at the Tri-Cities and at Des Moines, would that have any effect on your ability to perform the motor carrier service in this territory?

A. It would place us in the same position we were in before our authority was restricted, and we would then be on an equal basis with our competitors; and I am sure on an equal basis that we can hold our own. We don't ask for any advantage. All we ask is to be on an equal basis.

Q. Now, you have had approximately seven months, including the month of March, 1952, of operating under the restricted authority, under which you are now operating, I believe?

A. That is right.

[fol. 1887] Q. Now, with the increased costs that you have told us about that are being incurred, and with the present operation, in your judgment can you continue that operation indefinitely in the future subject to the restrictions that are presently in effect?

A. It is my best judgment that we can not.

Mr. Howland: Now, I will ask Mr. Nolan to examine the witness with respect to certain phases in which he is primarily interested for the intervenors which he represents.

By Mr. Nolan:

Q. Now, Mr. Peterson, there has been testimony in the record that at certain shipping points such as Iowa City, Grinnell, Newton and Atlantic, leaving out the larger points such as Des Moines and Davenport, that it was essential to the shipping interests there, because of the smaller nature of the businesses located in those points, that facilities be available for rate information, routing shipments, for loss and damage claims and tracing shipments. Now, in the event that your company was not authorized to restore and regain the opportunity to conduct the services they were giving prior to any restrictions, would those facilities, including the personnel available in those cities and towns, remain?

A. It was my thought at the time that these restrictions were imposed, and at the time of the temporary hearing, that we might be able to maintain certain facilities at some of these points. I am convinced today that the bulk of these smaller points, so far as the motor subsidiary is concerned, will be closed up.

[fol. 1888] Q. By that do I understand that in those points I have named, including, well, Muscatine and Washington, where there was testimony that the terminal facilities that your company has included rate information, routing in-

formation, for tracing shipments, and loss and damage claims, that they were a valuable service, and the only service of that kind available in those communities by any common motor carriers, that your company would terminate those facilities and that service to those communities?

A. It is my best judgment that would happen.

Q. And, as I understand, you would no longer maintain the facilities and keep the personnel there?

A. That is correct.

Q. And your personnel would then be reduced to that extent in those particular communities?

A. Yes, that is right.

Q. Now, I understand that here in Des Moines, the home office of the Rock Island Motor Transit Company, that you have a complete office force independent of the railroad, which is available and which does aid in serving the community served by the Rock Island Motor Transit Company. Now, in the event that your company did not have its original operating rights restored, what would be the effect upon the facilities and personnel which you have here in Des Moines, which has been used by the Rock Island Motor Transit Company in serving the public in the territory involved in this case?

[fol. 1889] A. Well, of course, Des Moines would be the hardest hit of any of them. It is our general office here, and if we are forced to go into an operation such as we would have to go in under the White Line order, all I would maintain here would be cost accounting and payroll. That means that beyond that it would probably be reduced to, probably just wiped out except cost accounting and payroll.

Q. How many employees did your company have at the time of the effective date of the order in the White Line case last July 31st, which were being used to serve the public in the territory covered by your company?

A. Well, it run on the regular payroll about seven hundred fifty, and your extras aren't on there. Our peak was eight hundred eighty-three last year.

Q. How many employees does your company now have?

A. It would run between seven and eight hundred.

Q. How many employees would your company have if

you were required to go to a strictly rail billing service in connection with the White Line Motor Truck Line?

A. Well, it would be far less than I anticipated at the time this order was made effective. At that time I figured two hundred twenty-two would be laid off, but they would be far more than that because I can see the results of what happened under this restrictive order, and if that is carried out, why it will be reduced far below the two hundred [fol. 1890] twenty-two that I have figured would be laid off.

Q. Well, now, do I understand that, for instance, in Newton you have a terminal agent there, you have pick-up and delivery drivers, and in these other places where you have terminals, that you have the terminal agent, pick-up and delivery drivers, and personnel of that kind, would your company if required to go to a strictly rail billing, would the personnel in those communities be eliminated or materially reduced in number?

A. They would be materially reduced, and they might be entirely eliminated because if there wouldn't be sufficient traffic to warrant the pick-up and delivery, we would put the pick-up and delivery up for bid, and some local contractor could do it cheaper than we could do it under the restricted operation.

Q. Now, you testified it required the intrastate, interstate and rail billed freight to even substantially sustain your peddler local operations, isn't that correct?

A. You have to have all of it to even begin to sustain a peddler operation.

Q. State whether or not if your company was required to go to a strictly rail billing on the White Line route, whether that would necessarily result in a curtailment of the local service on intrastate freight to the communities along the White Line System?

A. It definitely would.

Q. Now, one of the parties appearing in this proceedings [fol. 1891] in support of the application was the H & W Motor Express Company of Dubuque, Iowa. State whether or not the H & W Motor Express Company of Dubuque, Iowa, is a competitor of your company in interstate traffic?

A. They are.

Q. And between what principal points?

A. Between Chicago and Des Moines, principal points, Chicago and Davenport, and I believe Davenport and Des Moines, and Des Moines and Cedar Rapids on interstate traffic.

Q. How about between Chicago and Cedar Rapids?

A. Chicago and Cedar Rapids.

Q. How about between Chicago and the Tri-City area?

A. Yes.

Q. Tri-City area and Cedar Rapids?

A. Yes.

Q. How about between the Tri-City area and the Twin Cities?

A. Yes.

Q. And Des Moines and the Twin Cities?

A. Yes.

Q. Now, Mr. Peterson, I believe I understood you to testify, and also Mr. Hitchen, that your company participates in all of the motor tariff bureaus in the territory in which it operates?

A. We do.

Q. And by that do I understand you charge the same rate for motor truck traffic as all others who participate in those tariffs?

[fol. 1892] A. That is correct.

Q. And, as I understand it, where you are in competition with a company like the H & W Motor Express Company, you are competing with them on the same rates they charge?

A. Our rates are exactly the same.

Q. Now, what advantage from a competitive standpoint would your company have between the points such as Chicago and Des Moines, Chicago and the Tri-Cities, Chicago and Cedar Rapids, or any other points where you are in competition with a company like the H & W Express Company if you operated strictly upon a rail billing as compared with operating upon a motor truck tariff?

A. Well, in some instances we would probably have a rate advantage if we operated on rail billing. As far as the movement of freight operating on rail billing, they would have a terrific advantage over us on the movement of freight. The freight, in the movement of freight, so far

as the railroad is concerned on rail billing, it doesn't move through the terminals as near as expeditiously as it does on a truck line.

Q. Assuming, Mr. Peterson, that your company could not move freight from Chicago to Cedar Rapids on truck billing, isn't it a fact that in competition with a motor carrier such as the H & W Motor Express Company, that your rail rate is substantially less than your truck rate, and you would have a very substantial advantage on your competitor, particularly a company like the H & W Motor Express Company, which has to operate as a motor car-
[fol. 1893] rier of freight?

A. On the rate basis we would have an advantage over the truck lines if we were operating strictly on a railroad basis, on a railroad billing basis.

Q. And isn't it also true if you could pick your freight between key points and with that rate advantage, you would be able to secure traffic you would not otherwise be able to get?

A. That is very possible, and I think that is right.

Q. Isn't it also true, Mr. Peterson, there is a certain amount of traffic, freight that would be available to a railroad, I mean would be available to a truck line charging rail rates where that traffic doesn't have to move as expeditiously as other traffic, even though the time element would not be so important?

A. That's right.

Q. Have you ever had expressed to you by motor carriers who are operating on motor truck billing, that they would sooner have your company, or any other railroad subsidiary, operate as a motor carrier on account of the preferential rate that the railroad subsidiary might charge.

Mr. Fowler: That is objected to as immaterial to any issue.

Exam. Carpenter: Objection sustained.

By Mr. Nolan:

Q. Now, you testified about your pick-up and delivery costs, and your dock charges. You made a statement in some instances particularly, in all instances particularly

[fol. 1894] on short hauls, that the pick-up and delivery charges and dock charges exceed the line-haul revenues.

A. It does on the short hauls, yes.

Q. Can you give us a typical example of that so we will understand just exactly what you mean? Can you give us, for instance, between a point like Des Moines and Newton or Grinnell? Well, let's take, would Des Moines and Grinnell be a typical situation, or Des Moines and Newton?

A. Des Moines and Grinnell is a reasonably typical example.

Q. Well, now, as I understood your testimony, the dock charge at Des Moines is 13.96 cents per hundredweight. That is your dock charge alone?

A. The dock charge at Des Moines is 13.96. The pick-up and delivery is 12.54, and your office and spotter which comes into Des Moines brings that total up to 32.11 cents is your over-all cost at Des Moines, including dock, pick-up and delivery, office, office billing and your spotter.

By Exam. Carpenter:

Q. What is the spotter service, Mr. Peterson?

A. Spotter service is the pick-up driver that sets your trailers up to the house and takes them out, or sets another one, and pulls out a trailer for a customer to come in. The spotter service is just, it is service that a terminal, a company like ours that is operating in congested quarters like we are here, have to stand because we just can not [fol. 1895] operate any other way. We don't have sufficient room. We are operating in a freight house that was built fifty or seventy-five years ago. At Grinnell our total costs is 19.03, or a total——

By Mr. Nolan:

Q. What is your cost at Grinnell?

A. 19.03.

Q. I mean what makes up that cost?

A. That includes the pick-up and delivery, the freight house, the dock costs and billing costs, totals 19.03.

Q. I figure that you would have costs then at Des Moines and Grinnell which would total 51.3 per hundred.

A. It would be a total of 51.64. No, I figured it wrong. That is 3 and that is 4, 51.14.

Q. 51.1 cents a hundred?

A. Yes.

Q. For your costs at Des Moines and Newton, or I mean Des Moines and Grinnell?

A. Yeah.

Q. All right. What is the average class and revenue on shipments moving between Des Moines and Grinnell per hundredweight?

A. Well, I had that here, but I seem to have lost it off of the record.

Mr. Fowler: I will take your guess on it.

A. It is here. It is 61 cents on a one hundred pound basis from Des Moines to Grinnell, averaged 61 cents for the year 1951. That is the L. C. L. rate out of Des Moines [fol. 1896] to Grinnell, which is higher than the proportion of any interstate rate could possibly be on the mileage basis, so that we had a cost there of 51.5.

Exam. Carpenter: 51.1.

Mr. Fowler: And revenue of approximately 60.

A. 61, and we have to haul it over there and pay all of the motor transit overhead for ten cents, which is just fantastic. It is completely out of the picture.

By Mr. Nolan:

Q. That is your local rate you charge from Des Moines to Grinnell?

A. That is right.

Q. What about the division of through revenue on interline?

A. It would be far less than that.

Q. Now, we will take the situation between Des Moines and Newton. Your revenue would be less than 61 cents, but I will ask you if your dock and pick-up and delivery charges in Des Moines and Newton would be substantially the same as where Grinnell was involved?

A. Well, Des Moines and Newton, it would be 32.11 and Newton 17.95, 49.06. That is the total of the Des Moines and Newton, our terminal costs is 49.06.

Q. And what would be your average revenue on a shipment between Des Moines and Newton?

A. It would be less than between Des Moines and Grinnell, in my best judgment, unless the zone just happened [fol. 1897] to break just right there. I would say the revenue would be less than between Des Moines and Grinnell.

Q. On a through line division of revenue your proportion would be less?

A. It would be less, yes, sir, that is right.

Q. Now, Mr. Peterson, you testified in connection with your rail billed freight that you were able to balance your eastbound operations, that is to load your trucks back from Des Moines to Chicago because the normal movement of truck freight is from Chicago westbound.

A. We get some. We did get some before this restriction went in. We did get some eastbound freight from the railroad which would run about, never over two trucks a day eastbound.

Q. I say you were able to get it?

A. Yes, we were able to help balance, and that was the only advantage there.

Q. I say you have that arrangement with the railroad to handle some rail billed freight here in Des Moines, to load up some of your empty trucks going back to Chicago?

A. It is our policy to move the rail freight eastbound wherever possible. That is one of the savings we can do to the railroad because whenever they move a car eastbound, they have to move it back to get the load back, so, consequently they want their L. C. L., they want us to move their L. C. L. eastbound wherever possible.

[fol. 1898] Q. The point I am trying to get at now, with this arrangement with the Rock Island Railroad to balance their operation, you take their freight when it is convenient for them to turn it over to you, and tends to balance your operation.

A. That is right.

Q. I will ask you if, with any independent motor carrier such as the H & W, you have entered into arrangements

with that company, or other companies, for points of interchange where they by turning over freight to you helps balance your operation in one direction, and you turning over freight to them will help balance their operation in another direction?

A. Yes, we have worked that out with various truck lines, and with the H & W particularly. We will balance their movement at Cedar Rapids some times, and balance it at Davenport where we have no movement. We will switch those movements where it is to the best advantage to them to have it, where they have empty equipment and can use i' dvantage. That is common practice.

Q. The point I am trying to make is this. Is there any difference in your operation with the Rock Island Railroad Company at points where freight is turned over to your company, your motor truck company, to balance your operation than it is with independent motor truck companies where you work out arrangements with these independent motor truck companies to turn over freight at certain points and receive freight at certain points to balance the operations of the independent motor truck com-
[fol. 1899] panies and your company?

A. There is no difference.

Q. You say that you have worked out such arrangements with companies like the H & W Motor Express Company, is that right?

A. That is right.

Q. And, as I understand it, instead of delivering certain freight at Davenport for the H & W moving into the northeastern Iowa territory, you might turn it over to them at Cedar Rapids?

A. That is right.

Q. Is that on a prearranged basis in a conference between members of your company and the H & W?

A. That is right. It is on a prearranged basis.

Q. And does that same thing apply, too, throughout your System, and has it been followed throughout your entire area?

A. Yes, those arrangements have been made with various truck lines at various other places. I can think of one

or two, particularly PIE. We have worked out arrangements with them for the handling of freight of that kind.

Q. And isn't it also true you have had freight turned over to you by truck companies that had authority to serve local points, and turned it over to you at an interline point?

A. That is definitely true.

Q. And isn't it true that your company interlines, turns over freight at Omaha for the Nebraska territory? They turn it over at Omaha rather than carry it on to Lincoln? [fol. 1900] A. Yes. We would rather interline at Omaha than we do at Lincoln, even though we would get more revenue to our company by turning it over at Lincoln, but we still prefer rather to turn it over to them at Omaha because the service is better.

Q. You have empty trucks coming back from Lincoln, too?

A. That is one thing, and the customer wouldn't get the service he would get through the Omaha gateway.

Mr. Nolan: I believe that is all.

Mr. Howland: There are matters I wanted to inquire about before Mr. Fowler examines. May I see the exhibits?

By Mr. Howland:

Q. Mr. Peterson, I had certain exhibits I want to call to your attention that have already been identified by Mr. Cole, and I want to particularly call your attention to Exhibit No. 10, which is the graph that shows the average load in tons, 1944 and 1950, comparison of average load in tons at representative midwest truck companies and the Rock Island Motor Transit Company, all freight handled. Now, that shows, as I understand it, that beginning with 1944 a decline in the average load in tons of the Rock Island Motor Transit Company, whereas it shows generally an increase in the average load in tons of these midwest motor trucking companies. Is there any explanation that you can give us for that?

A. Yes, there is only one.

Mr. Fowler: Just a moment. That is objected to as immaterial. Objected to as calling for hearsay. Objected to as [fol. 1901] calling for an incompetent conclusion of the witness.

Exam. Carpenter: Objection overruled.

A. There is only one answer to that, and that is the fact that we are a predominantly peddler operator, and the large part of our equipment is used in peddler service. In peddler service your equipment runs from fifty to, from fifty to sixty-six per cent empty miles, and while the truck lines involved here are predominantly key point operators and truckload operators, and do some peddling, but not in any degree to the amount of peddling that we do.

By Mr. Howland:

Q. Now, Mr. Peterson, I will hand you at this time a document in graph form which I will ask be marked for identification as Exhibit No. 22.

(The graph referred to was marked as "Applicant's Exhibit No. 22, Witness Peterson," for identification.)

Exam. Carpenter: It will be marked for identification as Exhibit No. 22.

By Mr. Howland:

Q. It is headed "Tons Transported in Intercity Service—1946-1950—Class 1 Motor Carriers of Property as Compared to LCL (originated) Tonnage of Class 1 Railroads." Now, what figures, what is shown by the document marked for identification as Exhibit 22?

A. This document shows the tonnage of the Class 1 truck operators' figures as furnished by the A. T. A. service, which they secured from the Interstate Commerce Commis- [fol. 1902] sion on the blue line. This indicates that the Class 1 truck operators in 1946 handled a total of 104,700,000 tons of traffic. In 1950 this jumped to over 200,000,000 with 12.2, 12.2% of the carriers in the Class 1 group not reporting. So actually in place of 200,000,000 it should be well up over 220,000,000 tons. The red line indicates the Class 1 railroads. Now, I want to go back to the Class 1 truck operators. I don't believe that the Class 1 truck operators represent anywheres near even a semblance of being near the total volume handled by the truck industry, as the

Class 1 truck operators represent not anywheres near the total number of trucks operated; while the Class 1 railroads represent at least ninety-eight to ninety-nine per cent of all railroad tonnage.

Q. Let me ask you this question. Are the figures which are shown here nation-wide figures?

A. They are nation-wide figures, yes. The Class 1 railroads come out of Railroad Facts in 1950, which was published by the Western Railways. In 1946 they handled 24,300,000 tons of less than carload business. In 1950 that had dropped to 10,900,000 tons.

Q. Now, of course, the graph marked for identification as Exhibit 22 contains both truckload and less than truckload quantities for Class 1 truck lines?

A. That is correct.

Q. And it would include, as I understand it, both contract [fol. 1903] carriers in the Class 1 classification and the common carriers?

A. Yes.

OFFERS IN EVIDENCE

Mr. Howland: At this time I will offer and introduce in evidence the document marked for identification as Exhibit 22.

Mr. Fowler: That is objected to as immaterial.

Exam. Carpenter: Objection overruled, and the document is received in evidence.

(Applicant's Exhibit No. 22, Witness Peterson, was received in evidence.)

Mr. Howland: At this time I will present to you a graph here headed "Indices of Tons transported in Intercity Service—Years 1938—1949—1941 equals 100%," and ask that be marked for identification as Exhibit 23.

Exam. Carpenter: It may be so marked.

(The graph referred to was marked as "Applicant's Exhibit No. 23, Witness Peterson," for identification.)

By Mr. Howland:

Q. Now, Mr. Peterson, I will ask you if you are familiar with the graph, the exhibit which has been marked for identification as Exhibit 23.

A. I am, yes.

Q. Will you explain that graph, please?

A. This graph, in my mind, is very important for this reason. It is a graph based on, actually based on tonnage. The statistics as furnished by the American Trucking Association and by the statistics as furnished by the Bureau [fol. 1904] of Transport Economics and Statistics of Class I Railroads, this here shows the steady incline from 1938 of the truck industry, and the terrific drop right after the war of the railroad industry, and it is, in my opinion it is important for this reason. In 1938 when the policy of the Commission was established to cut the truck industry from the railroads, that there was some justification for it. Today, with the facts such as they are, I am wondering whether there is or not.

Q. Well, let's find out what the blue line shows.

A. The blue line shows the steady increase of the truck industry.

Q. How is it made up? It starts with the year 1938, and it starts down at 50%?

A. Yes.

Q. Does that indicate that the blue line, does that indicate that the motor carrier tonnage in 1938 was below the rail carrier tonnage and below the 1941 average as a median?

A. They are both based on a tonnage figure, but it doesn't necessarily, as I understand it, mean the tonnage of both of them were equal. It shows that the tonnage of the truck lines in 1938 was 50% less than it was in 1941, and that the steady increase went up almost 230%, and almost 200% over the 1938 average figures.

Q. Whereas, the rail tonnage, L. C. L. tonnage, moved upward to the end of 1946, and then has dropped back to a level——

[fol. 1905] A. To a level below the 1938 figure.

Q. Otherwise, the graph speaks for itself?

A. That is correct.

Mr. Howland: I will offer and introduce in evidence at this time the graph which heretofore has been marked for identification as Exhibit 23.

Mr. Fowler: I object to it as immaterial.

Exam. Carpenter: Objection overruled. The document will be received in evidence as Exhibit No. 23.

(Applicant's Exhibit No. 23, Witness Peterson, was received in evidence.)

By Mr. Howland:

Q. Mr. Peterson, do you have any exhibit or information which you can offer for the consideration of the Examiner and the Commission with respect to the originating tonnage of rail carriers in the years 1925 to 1930 compared with the 1949 or 1950 figures?

A. Yes, I have.

Mr. Fowler: That is objected to as immaterial.

Exam. Carpenter: The objection overruled.

A. These are, in my opinion, very important figures. The five year average from 1926 to 1930, this is the Class I Railroads, taken from Railroad Facts of 1950, 1949 being the last available figures. In the 1926 to 1930 average, the railroads originated 1,279,196,826 tons. In 1949 they originated 1,224,001,369 tons, or over 55,000,000 less tons of freight handled by the railroads in 1949 than there was in [fol. 1906] the 1926-1930 average.

By Mr. Howland:

Q. Now, do you have any information with respect to the total production by agriculture, manufacturing, by mining or other industries in that comparable period?

A. We know——

Mr. Fowler: Just a moment, Mr. Examiner, I am going to object to this line of inquiry as immaterial. He read statistics on a nation-wide scope. We are involved in an application here between Chicago, Illinois, and Omaha, Nebraska. I can not see what materiality all of this has as to this proceeding. I object to it on the ground as being immaterial. It is certainly encumbering on the record,

has no bearing on any issues in this case, and too remote to be of any possible issue in this case.

Exam. Carpenter: The objection is overruled.

A. We know from statements agriculture has gone up well over forty per cent in this same period. Manufacturing has gone up over one hundred five per cent in this period, so that it is very evident from these figures that this traffic is moving other than by railroad, and that the railroad's subsidiary and the railroads are certainly not hurting the truck industry.

Mr. Fowler: I move to strike the answer of the witness on the grounds it is just a voluntary statement based upon hearsay, incompetent, and an opinion and conclusion of the witness.

Mr. Howland: I will agree the statement "It is very evident the railroads are not hurting the truck industry" [fol. 1907] may be eliminated as argumentative, not within the scope of the interrogatory asked.

Exam. Carpenter: It may be stricken. Now, what have you got there, Mr. Reporter?

Mr. Fowler: It is all right just as it is.

Exam. Carpenter: I think it is all right the way it is.

Mr. Howland: I think I will let Mr. Fowler examine you.

Exam. Carpenter: Cross-examine.

Mr. Fowler: Just sit back. You are going to have quite a rest.

Mr. Howland: I would like to have the record show at this time we have produced a file of leases, and we have also produced a file of pick-up and delivery contracts, and those are available for examination and cross-examination.

Cross-examination.

By Mr. Fowler:

Q. Mr. Peterson, first I would like to attempt to develop and define the issues which are involved in this proceeding. I hold in my hand a Certificate of Public Convenience and Necessity, Docket No. MC-29130, issued to the Rock

Island Motor Transit Company, a corporation, Chicago, Illinois, on September 11, 1951. Did you receive a copy of such certificate from the Commission?

A. Yes, I imagine we did. I am not exactly familiar with the numbers, off hand.

Q. Well, will you examine this document and tell me [fol. 1908] whether or not you did receive a copy of that?

A. Yes, I imagine I have it.

Q. Now, as I understand it, this document is supposed to describe the operating authority which the Rock Island Motor Transit Company had as of the 11th of September, 1951, on a permanent basis?

A. I think that is correct.

Q. And this certificate, of course, gives influence to the Commission's order and the proceedings in the United States Supreme Court, in which certain restrictions were imposed upon the operating authority of your company?

A. I am not clear as to that.

Q. Well, at least this certificate does impose certain restrictions upon your operating authority between Chicago and Omaha?

A. That is correct.

Q. Now, on Sheet 2 of the certificate, the route description appears, "Between Des Moines and Omaha, Nebraska," and then you have another segment, of course, which hooks up with that, which would be from Chicago to Des Moines. In other words, you hold operating authority over a route from Chicago to Omaha, Nebraska, passing through Davenport, Moline, Rock Island and Des Moines.

A. Yes.

Q. Now, on the bottom of Sheet 2 of that certificate there are set forth there certain conditions, reading as follows: [fol. 1909] "The service to be performed by said carrier shall be limited to service which is auxiliary to, or supplemental of, rail service of the Chicago, Rock Island & Pacific Railroad. Said carrier shall not render any service to or from any point not a station on a rail line of the Chicago, Rock Island & Pacific Railroad." Now, involved in this application, as I understand it, is a request to serve certain stations along the route involved that are not located on a rail line of the Chicago, Rock Island & Pacific Railroad, is that correct?

A. Griswold, a point that used to be on the Rock Island, but the branch line was abandoned, and the town, the first town west of Iowa City.

Q. Coralville?

A. Coralville, which also used to be on the Rock Island Railroad. If I recall correctly, they are the only two.

By Mr. Howland:

Q. What about Lewis?

A. Lewis is right. Lewis is the other one.

By Mr. Fowler:

Q. L-e-w-i-s?

A. Yes, Lewis.

Q. So the only request that you are making here for additional points, other than those which are presently served by the Chicago, Rock Island & Pacific Railroad, are the towns of Coralville, Griswold, and Lewis, Iowa?

A. I believe that is right.

Q. Now, as I understand it, the effect of that restriction, [fol. 1910] namely, "a service which is auxiliary to, or supplemental of, rail service" means that traffic handled by you on trucks is limited to that which moves on rail billing?

Mr. Howland: That is objected to as argumentative in form, calling for an opinion and conclusion of the witness as to the meaning of the certificate, and not proper cross-examination.

Exam. Carpenter: The objection is overruled.

A. To me that doesn't mean rail, it is restricted to rail billing. It is restricted to rail billing only if and when the Commission so states.

By Mr. Fowler:

Q. Was the present application, which is now before the Commission in Docket MC-29130, Sub. No. 70, prepared by you, or under your supervision or direction?

A. Yes, sir.

Q. Attached to your application is an exhibit bearing heading, "Statement of Proposed Authority," and I direct your attention to this language: "By the order of the Commission dated April 11, 1949, in the consolidated dockets above referred to and MC-29130, the certificates were modified by providing, in substance, that applicant should handle only shipments moving on rail billing and at rail rates and subject to the imposition of the so-called 'key point restrictions' at Omaha, Nebraska, Des Moines, Iowa, and collectively, Davenport and Bettendorf, Iowa, Rock Island, Moline and East Moline, Illinois." Was that information in the application when you authorized it to be [fol. 1911] filed?

A. Yes, sir.

Q. So at least at the time you filed the application, you were of the opinion that the effect of the restriction which confines your service to that which is auxiliary to, or supplemental of, rail service of the Rock Island Railroad, would require that all traffic moving by truck would be on rail billing and at rail rates?

A. No.

Mr. Howland: The same objections last urged.

Exam. Carpenter: The objection is overruled.

A. No, sir.

By Mr. Fowler:

Q. Now, traffic which you are permitted to handle under your permanent authority would also be subject to the provisions of the railroad tariffs with respect to packaging and crating requirements, would it not?

A. I think, yes, that should be right.

Q. And you will admit, I assume, that the requirements of the motor carrier tariffs in that respect are much more favorable to the shipper than the railroad tariffs?

A. I will not admit that. The railroad accepts shipment for moving that we, as a motor transit, will not accept. The railroad is far more lenient in accepting packing requirements than any truck line I have ever seen. They are far more lenient than their subsidiary, the Rock Island Motor Transit, on accepting packing requirements, and

[fol. 1912] you can go down to our terminal, they are setting right together, and look it over.

Q. Then, some of the shipper witnesses that appeared here before you and testified to the contrary, they were in error?

A. Well, I am just stating what I see.

Q. You don't argue with the statement that has been made by certain shippers here that the converse of what you stated is true?

A. I wouldn't argue, except I am talking about what I have seen with my own eyes at the terminal, setting right together.

Q. Then, as I understand it, you are willing to state that the tariff requirements of a railroad shipment with respect to packing and crating, etc., are much less stringent than similar requirements under the motor carrier tariffs?

A. No, apply them less stringently. They are less strict in their application than the motor transit is in its application. I have to put it that way because we will not accept shipments in packing, in packages that I have seen the railroad accept. Now, I am talking from a practical application. I am not familiar with the tariff on packing requirements. I am talking now from the practical application right on the operation.

Q. Well, then, what you are trying to say is, there may be a difference in the two tariffs, but they are not policed or enforced? Is that what you are trying to say?

A. I imagine that is about what I am trying to say.

Q. Now, the next condition appearing on Sheet 3 is to [fol. 1913] the effect that "No shipments shall be transported by said carrier as a common carrier by motor vehicle between any of the following points, or through, or to, or from, more than one of said points: Omaha, Nebr., and Des Moines, Iowa, and collectively Davenport and Bettendorf, Iowa, and Rock Island, Moline and East Moline, Ill." Now, just so we may have illustrations in this record as you may interpret that certificate, let's take a shipment moving from Chicago to Omaha, Nebraska. How would that be handled by your company?

Mr. Howland: You mean under this certificate?

Mr. Fowler: Under the permanent authority, under this certificate.

A. Under the permanent authority, that could move from Chicago only on rail billing in a boxcar.

By Mr. Fowler:

Q. In other words, then——

Exam. Carpenter: You don't want the carloads in there?

By Mr. Fowler:

Q. In other words, then, a shipment moving from Chicago to Omaha could not be transported throughout the entire route by truck?

A. That is correct.

Q. But would be transported throughout the entire route in rail boxcars?

A. Right.

Q. Now, a shipment moving from Chicago to Des Moines, Iowa, what effect would that restriction have on such a [fol. 1914] shipment, and in what manner would that move?

A. It would have to move the entire distance in a boxcar.

Q. Without any truck movement from origin to destination?

A. That is correct.

Q. Now, of course, you do interpret that to authorize you to transport truck shipments from Chicago to Colfax, Iowa, do you not?

A. On rail billing.

Q. On rail billing?

A. Yes.

Q. In other words, you could move traffic from Chicago to any point in Iowa east of Des Moines, Iowa, by truck?

A. That is correct.

Q. On rail billing. Now, this restriction would have no effect upon a shipment moving from Chicago to the Tri-City area?

A. No.

Q. In other words, under your permanent authority rail freight moving on rail billing could be transported from

Chicago to destination, namely, from Chicago to the Tri-City area entirely by truck?

A. Yes.

Q. Now, what effect does the key point restriction have on interstate shipments originating at the Tri-City area and destined to Omaha?

A. It would have to move all of the way by boxcar.

[fol. 1915] Q. For the reason that you can't pass through the key point of Des Moines, Iowa?

A. That is correct.

Q. Again, would such shipments be moved to any point west of Des Moines from the Tri-City area?

A. No.

Q. Now, taking it in the reverse direction, a shipment moving from Omaha to Chicago would have to be handled entirely on rail billing and in boxcars?

A. That is correct.

Q. A shipment moving from Atlantic, Iowa, to Chicago would be handled in what manner under your permanent authority?

A. It would either be loaded in a boxcar at Atlantic, or moved to Des Moines by truck and placed in a boxcar at Des Moines and moved to Chicago.

Q. In other words, it would take the combination of the boxcar and truck movement?

A. It could.

Q. Now, with respect to shipments moving from Omaha to any point west of Des Moines on U. S. Highway 6, could be handled either by boxcar or by truck?

A. That is correct.

Q. Now, the next condition is that "All contractual arrangements between said carrier and the Rock Island Railroad shall be reported to the Commission and shall be subject to revision, if and as the Commission finds it to [fol. 1916] be necessary, in order that such arrangements shall be fair and equitable to the parties." Now, is it your practice to file with the Commission copies of leases you have between the Rock Island Transit and the Rock Island Railroad covering terminal facilities which you use?

A. The Law Department in Chicago handles all of the matters with the Interstate Commerce Commission. I do

not believe that these leases, in fact I don't know whether they are filed or not. There are sufficient copies to be filed or signed and sent in, but whether they are actually filed with the Commission I could not tell you. That is handled by the Law Department in Chicago.

Q. Those matters are handled by the Law Department of the Rock Island Railroad in Chicago?

A. That is correct.

Q. And, so far as your knowledge goes, you don't know whether they have been filed or not?

A. I know they filed contracts with them. I know that has been filed because I have seen them in the office being prepared to go in, but I can't definitely say just what.

Q. Do you know whether copies of your pick-up and delivery contracts have been filed with the Interstate Commerce Commission?

A. That I do not know for sure.

Q. Do you know whether the contracts between the railroad company and its truck subsidiary with respect to the [fol. 1917] handling of interline freight between railroads, have been filed with the Commission?

A. Yes, that has been filed with the Commission.

Q. Those have been filed?

A. Yes, I know that.

Q. What other contractual arrangements exist between the Rock Island Railroad and the Rock Island Motor Transit Company other than those which I have mentioned?

A. The only contractual arrangements that are made, so far as I know, is the pick-up and the delivery, the leasing, and the employees paid for performing services.

Q. Now, do you have a written contract between the Rock Island Motor Transit Company and the Rock Island Railroad covering the line haul which the Rock Island Motor Transit Company does for the railroad on railroad freight?

A. I understand there is.

Q. Well, do you know whether that has been filed with the Commission?

A. It has been filed with the Commission. Now, I will put it this way. I have been told it has been filed with the Commission by the Law Department.

Q. And, other than those I have mentioned, you do not now recall any other contractual arrangements you have between the two companies?

A. That is correct.

[fol. 1918] Q. Does the Rock Island Motor Transit Company pay any portion of the salary of J. D. Farrington, its President?

A. We do not.

Q. Does the Rock Island Motor Transit Company pay any salary of the Treasurer?

A. We do not.

Q. And what is the Treasurer's name?

A. Gibson.

Q. Does the Rock Island Motor Transit Company pay any part of the salary of your Vice President, Mr. Swanson?

A. We do, yes, sir.

Q. And what proportion?

A. He is on the payroll of the Motor Transit at $208.00 a month.

Q. That is his total compensation?

A. From the Motor Transit, that is all, so far as to the best of my knowledge that is the arrangement, and, in fact, that is the only thing the Motor Transit pays him. What the railroad pays him I don't know.

Q. The point I am making, Mr. Peterson, Mr. Swanson gets more than $208.00 a month.

A. That is all. He gets the rest of his salary from the Rock Island Railroad.

Q. Does the Rock Island Railroad pay any part of your salary?

A. Yes, sir.

Q. What proportion? I am not trying to find out your [fol. 1919] monthly salary.

A. They pay one-third of my salary.

Q. Also do they pay a proportionate share of your expenses while you are on the road?

A. No.

Q. What other officer of the Rock Island Motor Transit Company receives all, or a portion of, his salary from the Rock Island Railroad?

A. Walter Hitchen receives about one-fifth of his salary from the Rock Island Railroad.

Q. And Mr. Hitchen is the Traffic Manager of the Rock Island Motor Transit Company. Is there any other officer?

A. There is no other officer, to my knowledge, that receives any monies from the Rock Island Railroad.

Q. Now, Mr. Peterson, referring again to Certificate No. 29130, issued under date of September 11, 1951. Do you interpret that certificate to apply any restrictions to your operations between the Twin Cities, Minnesota, and Omaha, Nebraska?

A. Yes.

Q. In other words, the key point restriction at Des Moines has the effect of prohibiting a through truck operation on rail billed freight from the Twin Cities to Omaha?

A. Yes, sir.

Q. What is the effect of the present certificate with respect to a shipment moving from Cedar Rapids to Omaha, Nebraska?

[fol. 1920] A. Well, it could be moved by truck from Cedar Rapids to Des Moines, and then would have to go into a boxcar at Des Moines to move to Omaha.

Q. In other words, speaking generally, then, the effect of the Des Moines key point restriction requires you to use a combination truck and boxcar service on shipments originating east of Des Moines destined to Omaha?

A. That is correct, and in every instance it slows up the traffic.

Q. Now, is there any such restriction on rail billed freight moving by truck from Kansas City, Missouri, to Omaha, Nebraska?

A. Yes, the same restriction applies there.

Q. Is that because of a key point restriction?

A. Yes, sir.

Q. Where is that key point?

A. Des Moines, Omaha.

Mr. Fowler: This is off the record.

(Statements off the record.)

By Mr. Fowler:

Q. On a shipment originating at Kansas City, that is handled through Des Moines, Iowa, in its physical operation?

A. Yes, sir.

Q. Now, do you transport rail shipments by truck on rail billed freight from St. Louis, Missouri, to Omaha, Nebraska?

A. We do not. Wait a minute. Read that off.

[fol. 1921] Exam. Carpenter: Read the question.

(Question read.)

A. No, we do not.

By Mr. Fowler:

Q. Does the Rock Island Motor Transit Company at the present time have operating authority to St. Louis, Missouri?

A. Yes.

Q. And briefly what is the extent of that operation?

A. The extent of that operation is paralleling the Rock Island Railroad between Kansas City and St. Louis, serving all of the towns on the railroad.

By Mr. Howland:

Q. Any restriction or key points?

A. Yes, a restriction, a key point at St. Louis, a key point at Eldon, and a key point at Kansas City.

By Mr. Fowler:

Q. So, under your present permanent authority you are unable to handle a shipment, St. Louis to Kansas City, all truck?

A. That is right. That is a certificate we acquired by application, and it is restricted in that way in the original certificate.

Q. Now, under your permanent authority, it would also be true that a shipment originating at Ottumwa, destined to Omaha, could not move through the Des Moines key point throughout by truck?

A. That is right.

[fol. 1922] Q. Now, at the present time under your permanent authority, you have no weight restriction on the volume of freight which you can transport by truck on rail billed freight?

A. That is right.

Q. Now, as I understand the instant application as it was originally filed, you sought a certificate of convenience and necessity between Chicago, Illinois, and Omaha, Nebraska, over the route therein described with service to and from the intermediate points which are therein described. Do you care to look at this? That is the first leg of the application, is that correct?

A. That is correct.

Q. Insofar as the route authority is concerned, you now hold permanent authority authorizing operation over those routes?

A. I think that is correct.

Q. And, as far as the points are concerned, you now have permanent authority to serve the points involved?

A. I think that is substantially correct.

Q. Now, the second leg of the application, as it was originally filed, also sought authority between Iowa City, Iowa, and Cedar Rapids, Iowa. You now hold permanent authority to operate over that?

A. Yes.

Q. The next leg of the application, as originally filed, was between Harlan, Iowa, and Omaha, Nebraska, serving [fol. 1923] the intermediate points specified, and the off-route point of Shelby. Am I correct in my understanding you now hold permanent authority for the route which is involved there?

A. I think that is right.

Q. And there has been no enlargement in the scope of the points to be served?

A. No.

Mr. Howland: Except as to Shelby.

A. Shelby was left out in error in the original application.

By Mr. Fowler:

Q. Then, there is involved in this application the additional point of Shelby?

A. I think that is right.

Q. And Shelby is a point located on the Rock Island Railroad?

A. On the Rock Island right west of Avoca.

Q The next leg of the application is between Avoca and Atlantic. I assume that you now hold permanent authority to operate over that?

A. Yes.

Q. And there are no additional points involved there?

A. No.

Q. Now, the application as originally filed volunteered a restriction that no shipment shall exceed five thousand pounds, and that no shipment shall be transported between any of the following points, or through, or to, or from more than one of said points, namely: Omaha, Nebraska, and [fol. 1924] collectively Davenport and Bettendorf, Iowa, Rock Island, Moline, and East Moline, Illinois, but by an amendment filed with the Commission on March 7th all of those restrictions were withdrawn from the application.

A. Yes.

Exam. Carpenter: Off the record.

(Discussion off the record.)

By Mr. Fowler:

Q. All right. Now, as the application presently stands and the one that is before the Commission for consideration now seeks a certificate of public convenience and necessity to operate over the routes specified in the original application, serving the points specified in the original application as an all out motor carrier, moving freight at motor carrier rates and subject to motor carrier tariffs, is that correct?

A. The application we have on file here is to restore the same rights we had under the old White Line order.

Mr. Fowler: Now, will you read my question, please?

Exam. Carpenter: Read the question.

(Question read.)

A. Well, I have answered it in the best way I can.

By Mr. Fowler:

Q. You don't find anything wrong with the statement I made in the question, do you?

A. Well, we are seeking to restore the same rights we had in the old White Line order which we operated under.

Q. All right. Are you seeking authority to conduct a [fol. 1925] general operation as a common carrier by motor vehicle?

A. That is right.

Q. And are you seeking permission to transport traffic at the established motor carrier rates?

A. That is right.

Q. And are you seeking to transport that traffic subject to the usual established motor carrier tariffs?

A. That is right.

Q. Now, that involves the right of the Rock Island Motor Transit Company to interchange with any other established common carrier by motor vehicle under a through rate or joint rate agreement?

A. That is right.

Q. Now, at the present time, as I understand it, the eastern terminus of the operation of the Rock Island Motor Transit Company is at Chicago, Illinois?

A. That is right. Actually it is in Indiana.

Q. In the Chicago area?

A. In the Chicago area.

Q. And the northerly terminus would be the Twin Cities in Minnesota?

A. That is correct.

Q. Your southerly terminus would be St. Louis, Missouri, and Kansas City, Missouri, generally speaking?

A. Well, yes.

[fol. 1926] Q. And the southwesterly terminus would be, we will get back to Memphis in a minute, the southwesterly terminus?

A. Dalhart, Texas, and Goodland, Kansas.

Q. And I believe you also said this morning you do have

a motor carrier operation down in Memphis, Tennessee, along in there?

A. Yes, sir.

Q. And is that a service auxiliary to, or supplemental of, the Rock Island Railroad?

A. It is an operation which we operate both in handling rail freight and in handling truck billed freight.

Q. Now, if you are granted this application, you would be free to interline with any other established motor carrier that you wanted to enter into an arrangement with, wouldn't you?

A. That is correct.

Q. And that would involve the exchange of trailers which is customary in the industry at the present time?

A. Yes, sir.

Q. Would that enable you by reason of interchange with other carriers to transport traffic moving from Chicago to the West Coast?

A. No. We could not operate any further than we did under the old White Line authority which we had previously.

Q. Assuming that this application was granted, could you enter into an interchange agreement with a carrier operating from Kansas City, Missouri, to Los Angeles, [fol. 1927] California, whereby you would have a through service on a through or joint rate from Chicago to Los Angeles?

A. Yes, it would enable us to do that.

Q. And would that be generally true, in other words, at any point of interchange with other established carriers, the Rock Island Motor Transit Company could enter into through rate arrangements?

A. Yes, we have them.

Q. Which would enable it to conduct an operation from Chicago, Illinois, to Los Angeles, California, San Francisco, California, Portland, Oregon, Dallas, Texas, etc.?

A. Just like any other motor carrier would.

Q. Now, the operations of the Rock Island Motor Transit Company, under the application which you have pending here, would parallel the rail lines of the Rock Island Railroad in each instance?

A. Yes, I think that is substantially correct.

Q. With a very few departures. Now, I believe you will recall, Mr. Peterson, it is many, many years ago when the Rock Island Railroad first ventured into the motor truck business, that the argument advanced in support of a request for operating authority was to the effect that by reason of the use of trucks, that the Rock Island Railroad, first, would be able to improve its rail service, and, second, it would be able to substitute trucks for way freight service?

A. No.

[fol. 1928] Q. Do I have a correct recollection of the testimony that you used to give them in those hearings?

A. You are not correct in that statement.

Q. In other words, when I say to you the reasons which you advanced originally in support of requests for operating authority of this type was, first, you wanted to use trucks to improve rail service, and second, you wanted to substitute trucks for way freight service, I am not correct?

A. No. We substituted trucks for boxcars, and was able to eliminate the boxcars and save some time, over-time on way freights. I don't know of any instance where we were able to eliminate, actually eliminate way freights that would be taking care of it, but it didn't materialize.

Q. If I am correct in my recollection of the reasons originally advanced by you in support of similar requests, namely, that motor trucks were to be used merely in substitution of way freight cars in handling railroad freight, then the present application you have pending here is a far cry from that original premise, is it not?

A. No. In every instance we asked for motor carrier rights, in every instance where we applied for any authority, and when we purchased certificates, such as the White Line, we were very specific, and we had to go back and get our motor carrier authority. We weren't going to accept it if we didn't get it, and Commissioner Rogers' objections to our, he came right out and stated if we re-
[fol. 1929] ceived motor carrier authority in the White Line——

Mr. Fowler: I am going to move to strike the answer of the witness as not being responsive to the question, and

for the reason that he is attempting to recite what is in his primary order and court proceedings, and probably they are the best evidence of what is in it, and I seriously make the motion.

Exam. Carpenter: The motion is sustained.

Mr. Howland: Is the whole answer stricken, the Examiner, please?

Exam. Carpenter: Read the question.

Mr. Fowler: Read the question.

(Question read.)

Exam. Carpenter: Let him go ahead and answer it now. Keep this on the record. The only part of the answer was the back part of it that was wrong.

Mr. Howland: The part about Commissioner Rogers.

Mr. Fowler: He can agree with what I said.

A. Well, I don't agree with your statement at all.

By Mr. Fowler:

Q. All right, now, the fact is, of course, that you are substituting—withdraw that. The fact is that the Rock Island Motor Transit is now performing a transportation service for the railroad that was previously performed in their general way freight operations?

A. Yes.

Q. And there is no question in your mind but what that [fol. 1930] has resulted in a substantial savings to the Rock Island?

A. Not the substantial savings that they expected to make.

Q. Well, again, let me ask you if you haven't testified in answer to questions I have propounded to you over the past fifteen years many, many times, one of the things that was involved in this was the savings the railroad would realize by virtue of the substitution of trucks for this way car service on the small branch lines.

A. I will agree with you to the extent that was what we expected to do, and we have been able to realize a saving in boxcar miles and in over-time on way freights. Beyond that it just hasn't materialized to the extent I thought it was, or any other railroad official thought it would.

Q. Now, I think your testimony shows that the Rock Island Railroad is presently affording to the public a merchandise boxcar service from Chicago to such points as Iowa City, Ottumwa, Des Moines, Omaha and the Twin Cities. Is that your understanding of the situation?

A. They do have some boxcar service to those points.

Q. And the record also shows, as I recall it, that the freight which moves to the various destination points by merchandise car is handled by the Rock Island Transit truck if the destination is beyond the break of the merchandise car?

A. That is true in some instances.

Q. Well, I will recall that your terminal man from Iowa [fol. 1931] City testified that Iowa City had a merchandise car in which Chicago merchandise was loaded. It was broken at Iowa City and then was distributed on your peddler operation out of the various towns contiguous to Iowa City.

A. That is generally the pattern.

Q. Now, in your direct testimony you referred to a situation which arose by reason of the fact that a substantial volume of traffic moves into the Iowa territory from Chicago, whereas the corresponding traffic moving eastward from Iowa to Chicago is extremely light. In other words, it was an unbalanced situation.

A. There is an unbalanced situation except in the truckload business. You will probably have more truckload business moving eastbound than you will westbound.

Q. All right. What you refer to, I presume, are packing house products and agricultural products.

A. Poultry and eggs, packing house products, and certain manufacturing such as——

Q. But the operation which you seek authority to conduct here would permit you to transport rail billed freight on the return trip from Des Moines to Chicago by truck rather than by boxcar?

A. Yes.

Q. In other words, in other words, the railroad company could load its westbound freight on boxcars to its heart's content and then to compensate for the unbalance, the [fol. 1932] return freight which is railroad billed, would

be moved back to Chicago by trucks of the Rock Island Transit.

A. The railroad's freight it would move east is the assembling of such little L. C. L. freight in the area north of Kansas City, east of Denver, south of Minneapolis, which would be concentrated at Des Moines, which, to my knowledge, has never exceeded, has never quite made two truckloads a day.

Exam. Carpenter: Read the question.

(Question read.)

Mr. Fowler: He answered that. Do you want the answer?

Exam. Carpenter: Yes, read the answer.

(Answer read.)

Exam. Carpenter: All right, Mr. Fowler, go ahead.

By Mr. Fowler:

Q. I believe you testified, and I believe Mr. Farrington testified, one of the reasons they would like, the Rock Island Railroad and its affiliate would like to obtain this authority was to overcome that unbalanced move and free some boxcars for general use. Is that your conception of this application?

A. That is the general idea.

Q. If the authority you are now seeking here were granted by the Commission, you could at any terminal point move your traffic either by rail car or by truck in any direction, is that correct?

A. In this immediate area, yes.

[fol. 1933] Q. Now, I presume that this unbalanced movement of traffic is an experience which any other motor carrier has to face?

A. He doesn't have to face it like we do with these restrictions.

Q. No, but traffic which any other motor carrier handles is subject to that same unbalance?

A. Yes, they are subject to it. However, they are free to get this truckload business back east.

Q. In other words, then, a carrier who is not affiliated with the railroad must find some traffic to move eastward to Chicago on the return movement or send his truck back empty?

A. Yes.

Q. Don't you think that gives the Rock Island Railroad an extremely significant competitive advantage over an ordinary independent motor carrier?

A. You mean the Rock Island Railroad or the Rock Island Transit?

Q. I use them one and the same for the question.

A. No, that doesn't. In fact we are at a very serious handicap being an affiliate of the Rock Island Railroad.

Q. In other words, the fact you can interchangeably load your freight on a rail car or on a truck moving in any direction doesn't impress you as being an advantage you have over your competitors?

A. No.

Q. In the motor carrier field.

A. I want to cite you an example here.

[fol. 1934] Q. Just a minute. I want you to answer my questions, and Mr. Howland will take care of you. Now, there was a lot of testimony on direct about the great reduction in employee personnel, and I don't think I would mention it except for the fact counsel went over such a wide range. Now, when you mentioned the number of employees you have and the number you are going to have, and all that sort of thing, I assume you are giving system figures?

A. No, that is the figures involved in this immediate territory.

Q. What do you mean by this "immediate territory"?

A. I mean the territory from Omaha to Chicago and the affected territory.

Q. In other words——

A. The only two points that are not on this line would be Minneapolis and Kansas City, which are vitally affected by the White Line order.

Q. Then, when you gave us the figures which you gave us, you included the Chicago setup?

A. Yes.

Q. The Tri-City setup?

A. Yes, sir.

Q. The Des Moines setup?

A. Yes, sir.

Q. The Omaha setup?

A. Yes, sir.

[fol. 1935] Q. The Kansas City setup?

A. Yes.

Q. And the Twin City setup?

A. Yes, included with Newton, Iowa City, Cedar Rapids and Muscatine.

Q. Yes.

A. It is the immediate involved territory. Kansas City and Minneapolis are very seriously involved in this particular operation.

Q. Now, if I understood your testimony correctly, you were attempting to develop the fact that you would have to make a serious reduction in personnel out in this territory in the event no relief came by first, the weight restriction, and second, the key point restriction, is that correct?

A. Under this application, yes, sir.

Q. Now, let's assume first that the Commission should see fit to retain the key point restrictions which are presently contained in your permanent authority. How would that affect your employee personnel situation?

A. Well, it would affect it very little different than it would affect on the regular White Line order as set out that we now have. If it does, it just wipes the heart out of our operation, and I would probably have to lay off anywhere from two hundred fifty to three hundred fifty employees.

Mr. Fowler: I move to strike the answer as not respon-
[fol. 1936] sive to the question.

A. I think I answered the question.

Exam. Carpenter: I think it was responsive.

A. I think I answered the question.

Exam. Carpenter: Read the question.

(Question read.)

Exam. Carpenter: That is responsive.

Mr. Fowler: All right.

By Mr. Fowler:

Q. As I understand your estimate, the key point restriction, if it is retained in the order which you finally got out of this proceeding, you will have to lay off two hundred fifty men?

A. The key point is just as destructive. I would have to lay off——

Mr. Fowler: Just listen to the question. I move to strike the answer.

Exam. Carpenter: Read the question.

(Question read.)

Exam. Carpenter: All right, answer it. Strike the answer and go ahead.

A. The key point is just as destructive to the operation as restricted to rail billing, and would make very little difference in our operation. It is my best judgment that we would lay off anywhere from two hundred to three hundred fifty people in that kind of an operation.

Q. Are you basing that estimate on an assumption that [fol. 1937] in the final certificates issued to the Rock Island Motor Transit Company, that it will contain the present key point restrictions as well as the weight restriction?

Mr. Nolan: Off the record a minute.

(Discussion off the record.)

Exam. Carpenter: Read the question.

(Question read.)

By Mr. Fowler:

Q. Let me withdraw that. What I am trying to get at, Mr. Peterson, is this. You are apparently attempting to leave the impression there is going to be a substantial curtailment of personnel of the Rock Island Motor Transit Company unless this instant application is granted to you in the form in which you have requested it.

A. I am not attempting.

Q. Just a moment. You follow me up to that point?

A. Yes, I follow you.

Q. Now, you have testified you are going to have a reduction in personnel of some two hundred or two hundred fifty men if something doesn't happen. Now, what is it that you are talking about that might happen that will cause a reduction in personnel of two hundred fifty men in this part of your system operation?

A. If the White Line order as it now stands is all we will have when this thing is through, then we will lay off a minimum of two hundred fifty to three hundred fifty employees of the Rock Island Motor Transit Company.

[fol. 1938] Q. Now, when you refer to the "White Line order" you refer to the order of the Commission which was involved in the appeal to the United States Supreme Court?

A. I mean the order we have at the present time, that the key points of Davenport, Des Moines and Omaha are restricted to rail billing.

Q. All right, let me suggest this to you. You now have in permanent form all of the authority you are seeking here now with two exceptions, as I understand it, and that is the elimination of the three key point restrictions, and the imposition of a weight restriction.

A. I made my answer on the basis of the order of the, what is now our order of permanent authority between Davenport, Des Moines and Omaha, and my figures stand on that.

Q. All right, now, let me ask you what it is that you are seeking here that you do not now have in your permanent certificate?

A. We are seeking to regain back the same authority we had in the White Line order before it was restricted. That is exactly what we are seeking here.

Q. And what does that involve when you break it down?

A. That involves open authority from Omaha through Des Moines to Chicago as we formerly had it.

Q. As an all out motor carrier?

A. As an all out motor carrier, that is right.

Q. Now, I think you testified that reduction in personnel [fol. 1939] would come about in several ways. First, if you don't obtain the authority you are now seeking, you would close up or reduce the personnel at many of your terminal points that now afford this tariff service that Mr. Nolan was talking about?

A. It would not only close up, it would eliminate an enormous amount of road drivers, and just general personnel, just closing down.

Q. Do you think that would amount to two hundred fifty people?

A. It would amount to over two hundred fifty people.

Q. Road drivers and terminal help?

A. Yes, sir.

Q. Just because you had to switch back to an all out rail operation?

A. We couldn't switch back to an all out rail operation and even have any semblance of this kind of traffic.

Q. Well, let me see if that is correct. You now transport rail billed freight by motor truck throughout this general territory, do you not?

A. Yes.

Q. And no matter what happens to this application you are going to continue to do that, I assume?

A. In its minor way, the way it is now being handled.

Q. You will continue to conduct the motor truck, the auxiliary service, etc.?

A. In a very minor way compared as it is today.

[fol. 1940] Q. You will perform whatever service the railroad is required to perform, will you not?

A. I will be required to materially reduce it.

Q. But the railroad will perform whatever service it is required to perform under its obligation, wouldn't it?

A. It is certainly going to cut it.

Q. The fact still remains, the railroad has an obligation to serve the public, and I assume it will continue to do that?

A. No type of service we are giving there.

Q. We will come to that in a minute. The fact remains no matter what the outcome of this instand application, the Rock Island Motor Transit Company will continue to conduct a truck operation as auxiliary to, and supplemental of, the rail service?

A. I am not too sure about that.

Q. You want to say that service will not be continued in the event this application is not granted?

A. No, I can not say that. I can only say it is going to have to be reappraised and see what we can do with it when the final order is out.

Q. Now, you said on direct examination—I will withdraw that. You maintain a terminal force and terminal facilities at such points as Iowa City, Grinnell, Newton, Atlantic, Washington, Iowa, Muscatine, and at some other points which are comparable to those I have mentioned in size, etc. [fol. 1941] Now, your force at those points consists of a terminal manager, or I believe you call them terminal agent, and in addition to that you maintain your pick-up and delivery drivers, and in addition to that you maintain a billing clerk, and the testimony here is you have tariff information available at all of those points for the convenience of your shippers?

A. That is right.

Q. Now, as I understand it, with respect to those particular points, none of the competitive motor carriers have facilities of that character?

A. I don't think to the extent that we have no.

Q. Well, the testimony here is that there were no terminal facilities or comparable personnel at any of the towns I have mentioned except as were owned and conducted by the Rock Island Motor Transit Company?

A. I don't believe there is.

Q. Yes. Now, I presume the reason for providing such facilities is to give a better service to the public?

A. That has been our reason for providing it.

Q. And it is by far and away a better service than is afforded by any of the competitive motor carriers at the present time?

A. Well, I don't, it might be a better service to the public, but it is certainly a far more expensive service than I would like to maintain at any of those places if I was operating a private truck line. I would never maintain the [fol. 1942] service we are maintaining at the small towns. They are too costly. They are too expensive.

Q. Now, I believe you have testified that you are operating this motor carrier operation at the present time at a loss?

A. We are.

Q. And have been for some time?

A. Since the last several months.

Q. I think you also stated you were going to have to have

interstate, unrestricted interstate authority coupled with your intrastate revenue, coupled with the elimination of any weight restrictions if you were going to continue that type of service.

A. I didn't say we would have to. I said that if, to give that type of service and maintain it, it is necessary to have volume shipments and truckload shipments to help balance your operation, and help pick up the losses we are sustaining on the peddler operation we were able to do when we had the White Line authority, but, in view of that restriction, it has cut us down to where we are taking such terrific losses. In my best judgment we can not continue to perform the type of such service we are now performing with the restrictions we have imposed at the present time.

Q. What is your opinion as to whether or not any of the established motor carriers who have authority to operate over U. S. Highway 6 could maintain the type of service which you maintain on the available traffic and revenue? [fol. 1943] A. There was a time when you could make money on peddler operations, but your costs have been going up so high in the last few years that I don't see much chance of doing any more than even remotely breaking even, or even then on any kind of a peddler operation.

Q. Then do we find ourselves in this position, that the Rock Island Motor Transit Company is affording a service which is probably not justified by the available revenues by reason of the subsidization from the Rock Island Railroad?

A. I doubt it.

Q. Well, the fact remains, your operating losses are now secured or guaranteed by the parent corporation, as a practical matter?

A. I imagine as a practical matter.

Q. Now, how long would the Rock Island Motor Transit Company be able to perform the type of service which has been described in this proceeding if it weren't for the fact they had the financial backing of the Rock Island Railroad?

A. Under the present restriction I don't think it would be too long.

Q. You mean by that it couldn't continue to perform that service?

A. Not under the present restrictions.

Exam. Carpenter: We will take a five minute recess.

(Short recess.)

[fol. 1944] Exam. Carpenter: We will proceed.

By Mr. Fowler:

Q. Could it be, Mr. Peterson, that under present conditions, due to the increased costs, etc., that the available revenue and traffic from these small communities will not justify the type of service which the Rock Island Motor Transit Company is now affording?

A. Well, we have been able to perform this service and make a little money up until these restrictions hit us, and from the time those restrictions hit us, it has been pretty rough.

Q. Well, there were no restrictions on for the first seven months of 1950, were there?

A. The restrictions, the business started dropping off in about June when the effective date of this order started hitting us, the business started dropping off.

Q. Let me ask you again, there were no restrictions applicable to your operation for the first seven months of 1950?

A. There were no actual restrictions but there might just as well been a restriction because the results were the same.

Q. As I understand it the Commission's orders which imposed these restrictions became effective in the fall of 1951.

A. The Commission's order became effective, but the thing has been hanging over our head for the last year or so, and we just haven't been getting the business because they were looking for other outlets, and the result has been the same as if the restriction had been in.

[fol. 1945] Q. I hold in my hand a copy of your Exhibit No. 14 and it showed that you lost money every month for the first seven months of 1950. Now, I ask you, there were no restrictions in effect at that time?

A. No. The effect of it didn't come in too much until last year.

Q. Well, you were conducting up through the entire year of 1950, you were operating under the old so-called White Line certificate, weren't you?

A. Yes.

Q. So, if you lost money the first seven months of 1950, that had nothing to do with these restrictions, did it?

A. Well, we made money in 1950.

Q. Did you make any money the first seven months of 1950?

A. I don't remember just exactly, but taking the year as a whole we did.

Q. Didn't you make any money during the first three months of 1951?

A. No.

Q. The restrictions were in effect during the month of October, 1951?

A. They were supposed to have gone into effect in July, I think it was of 1951, I don't recall. I think either July 1 or July 30.

Q. According to your Exhibit 14 you made $12,000 in [fol. 1946] 1951, and you made $5,800 in October. The restrictions were on then, were they not?

A. But those were wonderful months in the trucking business.

Q. Well, the fact remains, there are two months out of the last four months of 1951 when you say these restrictions were in effect, you show an operating profit.

A. If you can't make a profit in September and October in the trucking business, then you better get out.

Q. The fact does remain, however, according to your own exhibit you made money in two of the last four months of the year 1951?

A. That is right.

Q. And that was during the time the restrictions were in effect?

A. I will agree with you.

Q. So that would indicate that at least for the month of August and the month of October, 1951, when the restrictions were in effect, you, nevertheless, were able to develop an operating profit?

A. We should have made ten times that much.

Q. But you did develop an operating profit?

A. Yes, I will agree with you.

Q. Now, by the same token, during the first four months of 1951, there were no restrictions in effect, were there?

A. No, there were no restrictions in effect.

Q. And your Exhibit No. 14 shows you consistently lost money in 1951?

[fol. 1947] A. Yes.

Mr. Howland: You mean throughout the year?

Mr. Fowler: The first four months of 1951, you showed an operating deficit each and every month.

A. Yes. It was to a great extent the boomeranging of this whole thing that has had an over-all effect on the entire operation for the last couple of years.

By Mr. Fowler:

Q. The fact remains you are making the statement here that you have got to have these restrictions off in order to operate at a profit and continue to perform the service which you are now performing?

A. That is right.

Q. But the fact remains that in the month of January, 1951, February of 1951, March of 1951 and April of 1951 when there were no restrictions of any character on your operation, you, nevertheless, showed a consistent operating deficit for those months.

A. I am not concerned——

Q. Tell me what effect——

Exam. Carpenter: Give him a chance to answer.

A. I am not concerned about any one particular month. I am concerned about the picture at the end of the year. If I was to worry about making money every month, I had better not be running this operation.

Q. Well, the fact remains while the restrictions have [fol. 1948] been in effect, namely, since the fall of 1951, you have shown an operating profit during two months.

A. Yes, when we should have shown ten times as much.

Q. And the fact remains while the restrictions were not on you lost money consistently for four months of 1951?

A. There is no question about it.

Q. Now, at many of these small towns where the Rock Island Motor Transit Company doesn't maintain any agent or terminal facilities, the pick-up and delivery is done from the over-the-road trucks?

A. That is right.

Q. And that is precisely the manner in which the competitive carriers handle pick-up and delivery in those small communities?

A. Yes.

Q. However, in those towns the Rock Island Railroad, in many instances, maintains a rail agent, is that correct?

A. In some of them, yes.

Q. And the Rock Island Motor Transit Company does the pick-up and delivery work for the railroad in those small towns?

A. Yes.

Q. And that is in place of the former drayage arrangement which they had?

A. That is only in those small towns because the railroad couldn't get a drayman to do the work, and we certainly, we don't want to do any pick-up and delivery of [fol. 1949] our own in these small towns. We would far rather hire a drayman, but we can not get them, nor can the railroad.

Q. You wouldn't have much occasion for a drayman where you are hauling railroad freight in on your own truck.

A. Our own motor billed freight, we would far rather turn that over to a drayman in these little towns because it is cheaper to pay him than pay the wages to the line-haul driver.

Q. That would be precisely the case with your competitors, too, would it not?

A. Yes, there isn't any question about that.

Q. There has been some testimony given by some of the witnesses here that the rail agent in these small towns where the Rock Island Transit doesn't maintain any agent, handles transactions for the Rock Island Transit as well as for the Rock Island Railroad, isn't that correct?

A. If there are any I don't know it.

Q. A witness testified that he paid the Rock Island Motor Transit transportation charges to a rail agent. What do you have to say about that?

A. I don't know of it if it is. It might be the driver might have left a bill and the shipment down there that he couldn't get rid of, and made that arrangement himself, but if there are any arrangements like that, I don't know of it.

Q. The fact remains that in many of these small towns involved in this application the Rock Island Motor Transit [fol. 1950] Company doesn't maintain any permanent representation?

A. That is right.

Q. And that the Rock Island Railroad does have an agent?

A. Yes, in some of them.

Q. And, in at least some instances, the agent of the Rock Island Railroad is contacted by shippers who are using the services of the Rock Island Motor Transit Company with respect to the payment of charges and the transportation of shipments, and so on?

A. No, I will not concede that because if he is doing that he is not doing it with any authority from the Motor Transit Company.

Q. If it is true that the Rock Island agent in these smaller towns is performing service for the Rock Island Motor Transit Company, it affords you some competitive advantage over your competitors, doesn't it?

A. No, I don't think so.

Q. Isn't it pretty difficult to separate the colored necktie which your man wears in these small towns, whether he is the Rock Island Railroad, or the Rock Island Motor Transit Company?

A. No, there isn't the slightest difference because there is too much jealously between the Rock Island Railroad employees in these small towns and the Rock Island Transit employees. They are very careful to bring that out.

Q. A witness by the name of Graham Godfrey; Dexter, Iowa, he is an implement dealer there, he testified in this [fol. 1951] hearing he filed claims he has against the Rock Island Motor Transit Company with the railroad, rail

freight agent at Dexter, and he pays the Rock Island Rail agent for freight charges he owes the Rock Island Motor Transit Company.

A. He is in error.

Q. Does that situation exist generally throughout this operation?

A. It doesn't, and that man is in error. He never filed any claim with the Rock Island Railroad for any claim of the Rock Island Motor Transit. I assure you of that.

Q. All right. What is this deal you have got with the H & W Motor Express Company, Inc. that Mr. Nolan is inquiring about?

A. Well, there is no deal except to this extent, that we have made arrangements with them that they wish certain freight delivered at Cedar Rapids for a certain period of time because they have more active equipment there, and maybe for the next period of time we will deliver the same freight to them at Davenport. It is an arrangement we have worked out if we had movements of freight so that we won't be getting freight into a place where they don't have the empty trailers. It is a convenience operation. It is something we worked out.

Q. Let's be specific about it. Is this arrangement only applicable at Cedar Rapids?

A. With the H & W Motor Express Company, it is between Cedar Rapids and Davenport. That is where we interchange freight with them.

[fol. 1952] Q. In other words the H & W have a substantial amount of traffic moving to Cedar Rapids, and you happen to have a piece of empty equipment. Do they turn it over to you for delivery at Cedar Rapids?

A. No. The interchange freight we have that comes up clear from the south, from Oklahoma, or Texas, or interline at Kansas City. It is an interline arrangement. It is a convenience. We don't pick up freight where we don't have equipment, and they don't pick up freight where they don't have equipment.

Q. Let me see if I understand it correctly. The H & W have authority to serve Cedar Rapids from the Tri-Cities and so do you?

A. Yes, sir.

Q. But instead of taking it up on their own equipment, they turn it over to you and you take it up on your own equipment?

A. Not necessarily through Davenport. This is more the Des Moines gateway through Cedar Rapids.

Q. Let's find out about that, what kind of a situation exists there. Do the H & W have authority to serve Des Moines?

A. Yes.

Q. They have authority to serve Cedar Rapids?

A. Yes, sir.

Q. And so does your company?

A. That is right.

[fol. 1953] Q. Am I correct in this, that freight which the H & W has destined to Cedar Rapids, we will say, in interstate commerce, they turn over to you for physical transportation rather than take it up on their own equipment, is that it?

A. No, that isn't it at all.

Q. Well, I don't understand it yet.

A. We will take freight coming up from Kansas City and points beyond, points they don't make, destined to some point on their line like Dubuque, or some point beyond that. We are certainly not going to turn it over to them at Des Moines. We will haul it to Cedar Rapids, or haul it to Davenport. We are going to get the long haul on it. We will make arrangements with them whichever place they want it, at Davenport or Cedar Rapids, whichever place they are going to have empty equipment, and more than quite often it is an advantage to have it at Cedar Rapids than Davenport because they will have empty equipment at Cedar Rapids. It is a mutual agreement that was worked out with them and with other truck lines at various points.

Q. What it amounts to is a mutual arrangement between your company and the H & W Motor Express Company as to the point at which you will deliver interline freight destined to a certain point?

A. That is right.

Q. And what controls that is the convenience of their own operation as to which point they will take it. Is that what

[fol. 1954] you had reference to when you were talking about the H & W?

A. To a great extent.

Q. I presume you have that kind of an arrangement with every carrier you interline with?

A. We have it with a lot of them.

Q. Now, at the present time, whether it is applicable in this territory, but speaking now of your system operations, you have many operations where you transport by truck rail freight under rail billing where you don't have any concurrent motor carrier authority, is that correct?

A. Read that, please.

Exam. Carpenter: Will you read it?

(Question read.)

A. We have one segment from Kansas City to St. Louis which is restricted to rail billing. We have one segment from McAlester, Oklahoma, to the State line at Arkansas. We have a little segment between Fort Worth and Dallas, and we have the segment between Cedar Rapids and Decorah, are the only segments that I can name where we have no motor carrier billing on the entire system, on the six thousand miles of operations.

Q. Now, your counsel has produced a file which apparently contains copies of your pick-up and delivery contracts between the Rock Island Motor Transit Company and the Rock Island Railroad. Now, looking in this file under "D" I find a copy of a contract entered into on July 18, 1949, which apparently provides that the Rock Island Motor [fol. 1955] Transit Company will pick up and deliver Rock Island Railroad freight in that area on the basis of sixteen cents per hundredweight.

A. Is that Des Moines, yes.

Q. Now that applies irrespective, that is a unit figure, irrespective of the tonnage volume or the miles which the pick-up and delivery truck has to operate?

A. That is sixteen cents a hundred, not minimum. That is a contract, it was in effect, as I recall, by the carrier that had it at the time we took it over.

Q. And the contract has been in effect since July 18, 1949, without any modification upward?

A. There has been no necessity in that because it is costing us around twelve something to perform that service.

Q. In other words, the Rock Island Motor Transit Company, then, according to your judgment, is making a profit of four cents on each one hundred pounds?

A. Not quite four cents, but three and one-half cents if I recall correctly.

Q. In other words, your pick-up and delivery contract at Des Moines develops for you a profit from the Rock Island Railroad?

A. That is right.

Q. But the basic rate has not been changed since the contract was entered into on July 18, 1949?

A. That is right.

[fol. 1956] Q. Do you feel that the fact that the Rock Island Motor Transit Company can develop a profit in that manner on pick-up and delivery service for the Rock Island Railroad, that it has some competitive advantage over other carriers in this territory that don't have such arrangements?

A. Oh, I don't believe so.

Q. It does produce for you a revenue, does it not?

A. There are several other little places where we lose a little money on it.

Q. Now, do you have a pick-up and delivery contract at Davenport?

A. Yes.

Q. I have been unable to find a copy of the pick-up and delivery contract which exists between the Rock Island Motor Transit Company and the Rock Island Railroad in the Tri-City area. Do you have such a written contract?

A. We have, yes.

Q. And will you undertake to locate it some time?

A. I will be glad to furnish the contract. The rate is eighteen cents on pick-up and delivery and ten and one-half cents on shuttle, and should be in that file because this is an abstract of that file.

Q. Now, when you refer to "shuttle service", what do you have reference to?

A. Shuttle the railroad freight between the five terminals there.

Q. As I understand it you also have contracts with the [fol. 1957] Rock Island Railroad whereby your equipment and your personnel is used in transporting freight for the railroad to and between other railroads?

A. In some places, yes.

Q. I think you have such an arrangement in Omaha?

A. Yes.

Q. And such an arrangement at Davenport?

A. Yes.

Q. I think you just said, is that true in Des Moines?

A. Yes. We just took it over in Des Moines just the first of this month because the people that were having it wanted to abandon it.

Q. And at Minneapolis, do you have it there?

A. No, we do not.

Q. How about at Kansas City?

A. We do at Kansas City.

Q. Now, I notice in this file a contract covering Council Bluffs pick-up and delivery service, which was entered into on the 18th day of July, 1949, and apparently provides for a charge of ten cents per hundredweight, is that correct?

A. The Omaha contract is fourteen cents a hundred.

Q. This is Council Bluffs, Mr. Peterson.

A. I don't have Council Bluffs listed on my abstract. I have Omaha and the Council Bluffs—Omaha shuttle, which is nine cents. We do the picking up and delivery. I should [fol. 1958] have it on here because we have a contract on it.

Q. I have called your attention to the file you handed me which contains a copy of contract made July 18, 1949, covering Council Bluffs pick-up and delivery at the rate of ten cents a hundred, and the shuttle contract between Council Bluffs and Omaha, seven cents per hundredweight.

A. Well, the shuttle service contract should be nine cents, the shuttle there. There must be another local down below it or above it. There must be.

Q. You have a separate contract for Omaha?

A. Yes. That is fourteen cents on Omaha.

Q. I notice in this same file a contract dated December

1, 1949, apparently covering pick-up and delivery service at Omaha and Council Bluffs.

A. That is probably it.

Q. Which provides for fourteen cents per hundredweight pick-up and delivery at Omaha, Nebraska, proper?

A. Yes, sir.

Q. And pick-up and delivery to and from the Omaha freight house as applied to Council Bluffs is seventeen cents per hundred?

A. I think that is correct.

Q. Have any of those charges been increased since this contract was made in 1949?

A. Not that one. That is the last contract.

Q. Now, you also perform the intra-rail service to the [fol. 1959] Rock Island Railroad in Omaha and Council Bluffs?

A. Yes.

Q. On the basis of nine cents per hundredweight?

A. Nine cents on that, right.

Q. Now what, in your opinion, as to whether or not those develop a profit to the Rock Island Transit, or develop a loss?

A. Well, I haven't checked them. I could not tell you at the moment whether they do or they don't. They were taken over at that time, when they were originally taken over at the time they were taken over, they were taken at the rate the contractor was using, was getting at that particular time.

Q. I assume you readily agree with me, the cost of pick-up and delivery operation has increased substantially since 1949?

A. Not so substantial as it will effective February 1, 1952.

Q. But you have, your cost of operation in pick-up and delivery has certainly increased from 1949?

A. Oh, yes, it has increased some.

Q. Your counsel has handed me copies of a number of contracts which apparently cover the leasing of railroad facilities by the Rock Island Motor Transit Company, which, of course, I have not had an adequate chance to examine in detail. Now, I believe you testified this morning that the

basis for the rental of these premises was upon a six per cent return on the value of the property, six per cent it appeared on the books of the railroad company.

[fol. 1960] A. I don't know whether that is the value that appeared on the books of the railroad company. However, in every instance when I have argued with them on getting a better lease, they say, "We have to charge on the basis of six per cent."

Q. Who fixes these rents, the Transit Company?

A. No, the Real Estate and Tax Department of the railroad fixes the rent.

Q. In other words the Real Estate and Tax Agent of the Chicago, Rock Island & Pacific Railroad is the one that designates the amount which the Rock Island Transit should pay for these rents?

A. Unless I can take him out of it, and taking it down to—I love the guy.

Q. He is the final guy?

A. He is the final guy. I have to argue with him on all of them.

Q. So you, as General Manager of the Rock Island Motor Transit Company, don't have the veto power on the rental price which the Real Estate and Tax Agent of the railroad fixes?

A. No, I don't have veto power. I can only argue with him.

Q. You have a right to argue, but if he doesn't agree with you, that is the end of your argument?

A. That is about right in that case unless I want to take it over his head, which I haven't had to do so far.

Q. Now, I believe you stated that you have a contract with the Rock Island Railroad which provides that the Rock [fol. 1961] Island Motor Transit Company will handle, will haul rail freight on your over-the-road trucks on a basic price of fifty-five cents per hundredweight?

A. There is.

Q. Irrespective of the distance travelled?

A. Yes.

Q. The type of traffic provided?

A. Yes.

Q. What else was there? Mr. Peterson, the witness who

appeared here by the name of Louis C. Willenbrock, from Mitchellville, Iowa, testified that when he wants to avail himself of the services of the Rock Island Motor Transit Company, he merely goes and tells his Rock Island agent and he sends the truck around. Is that the general situation over your system?

A. No, it is not.

Q. Now, since this restriction became effective with respect to key points, how have you been handling your freight from Chicago destined to Omaha?

A. We have handled some freight destined to Omaha, brought into Des Moines and turned it over to the Roberts Transfer here at Des Moines.

Q. Is the Roberts Transfer a common carrier operating between Des Moines and Omaha?

A. Yes.

Q. Has it been turned over to him on a contract basis or a [fol. 1962] joint rate basis?

A. On a joint rate basis.

Q. In other words, that is rail billed freight?

A. No, that would be truck billed freight.

Q. Truck billed freight.

A. And we have no authority to haul it to Omaha. We can haul it as far as Council Bluffs, or turn it over to him at Des Moines. There is very little of it but we do get caught with some of it.

Q. But there has been some rail billed freight that has gotten over on Roberts' truck for Omaha?

A. If it has that has been an accident.

Q. How does that happen?

A. It is turned back if it is caught. It isn't even handled at all.

Q. Is there any joint rate agreement between the Rock Island Railroad Company and the Roberts Transfer?

A. No.

Q. The only agreement which is in existence is an interline joint rate agreement between the Rock Island Motor Transit Company and the Roberts Transfer?

A. That is right, just the regular tariff interline rate agreements.

Q. Do I understand, then, since this restriction has been effective the Rock Island Motor Transit Company has been [fol. 1963] handling motor billed freight at Chicago, destined to Omaha, and turning it over to the Roberts Transfer Company at Des Moines?

A. Yes, we can do that under the order. We are restricted not to haul any Chicago freight to Omaha.

Q. Then, the restriction doesn't amount to very much, does it?

A. Oh, yes, it does.

Q. If you can originate freight at Chicago destined to Omaha and bring it to Des Moines and turn it over to another carrier, all you lose is the revenue on the haul from Des Moines to Omaha, isn't it?

A. Well, we get caught with some, and we certainly don't want it at all.

Q. Well, then, you have circumvented the effect of the restriction by that arrangement?

A. No, I don't think so.

Q. The fact remains, does it not, you have accepted freight originating in Chicago and destined to Omaha, and you have transported it on your equipment to Des Moines, Iowa, where you have turned it over to the Roberts Transfer?

A. Yes, we have.

Q. Let me ask you one more question about the effect of this restriction which you have on your permanent certificate authority as applied to interstate shipments moving from the Twin Cities in Minnesota, to a point such as Iowa City, Iowa?

A. Moving out of the Twin Cities on truck billing or rail billing?

[fol. 1964] Q. Well, first on rail billing?

A. We are restricted to five thousand pounds on any shipment moving out of the Twin Cities to Iowa City whether it is truck or rail. No, the rail is not. The rail is not restricted. The rail is twenty thousand pounds, I beg your pardon, but on truck billing, it is restricted to five thousand.

Q. All right, let's take a rail billed shipment under your permanent certificate, moving from the Twin Cities in

Minnesota to Iowa City, Iowa. Can you handle that through on the truck operation?

A. We could, yes.

Q. In other words, the key point restriction wouldn't affect that type of shipment?

A. Not to Iowa City.

Q. But would affect it to Omaha?

A. Yes, sir.

Q. And would affect it to the Tri-City area?

A. Yes, sir.

Mr. Howland: Mr. Fowler, Mr. Morrison has located the copy of the agreement dated June 18, 1951, between the Railroad Company and the Motor Transit Company, covering pick-up and delivery service at Davenport, Iowa, Rock Island and Moline, Illinois. It is in the file. It seems to have been filed under the designation of the letter "U" instead of the letter "T."

[fol. 1965] By Mr. Fowler:

Q. The contract you have just referred to apparently provides for an eighteen cent per hundredweight charge, no minimum charge.

A. Yes, that is what I have, my records.

Q. And that is in the Tri-City area, is it?

A. Yes, sir.

Q. I suppose these agreements which you have produced here also cover situations—I will withdraw that. I am sure it does. Off the record.

(Discussion off the record.)

Mr. Fowler: Well, that is all I will ask. Probably not all I should have had.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Howland:

Q. All right, Mr. Peterson, counsel has asked you concerning the losses from operations in the certain periods of the year, both in the year 1950 and in the year 1951,

being the early months of the year. What is the fact generally in this territory, in your experience, as to whether the months of January and February, the motor carriers, or at least the Rock Island Motor Transit Company, has been able to make any profit usually in those months?

A. Generally speaking, January and February are your two lowest months in the year. Your upturn starts in March, and you have March, April and May.

[fol. 1966] Q. Do you recall in the year 1950 that there was rather an abnormal situation existed in that there were certain wage increases that were granted, and there was a lag in the picking up of the rate increase to take care of the increased costs?

A. I don't recall exactly what that situation was there, but there was some rate increases, although they were slow in getting in, and the situation is going to be the same now.

Q. Now, the fact of the matter is that for the years 1950-1949, your year figures did show some profit to the Rock Island Transit from the operation of the business, isn't that a fact?

Mr. Fowler: I am going to object to that on the grounds it is not the best evidence. The books and records are the best evidence he has had a profit in the operation.

Exam. Carpenter: He is speaking from the records. They are already a part of the record, Mr. Howland?

Mr. Howland: Yes. This exhibit doesn't cover 1949. It doesn't cover 1949.

Exam. Carpenter: The objection sustained.

Mr. Howland: All right, go ahead.

By Mr. Nolan:

Q. Mr. Heinecamp testified here today in response to a question by Mr. Fowler in regard to the expeditiousness of rail freight moving out of Omaha on rail billing, and you were last asked by Mr. Fowler in regard to a shipment from Minneapolis to Iowa City. Now, what is the fact as to whether or not a shipment from the Twin Cities [fol. 1967] to Iowa City by rail billing has no restrictions other than the rail billing under your permanent authority? There is no five thousand pound restriction?

A. No, there is no weight restriction there.

Q. Now, in order to clarify the record I am going to introduce some situations here on behalf of the Chamber of Commerce of Iowa City, one of the intervenors represented by me. What would be the time of movement on rail billing from Minneapolis to Iowa City via the Rock Island Motor Transit Company?

A. The movement from Minneapolis to Iowa City by the Rock Island Motor Transit Company, it would be picked up at the consignor's place of business today. It would be out of Minneapolis tonight, would be in Des Moines in the morning, would be worked here in Des Moines, and would be delivered to Iowa City the second morning.

Q. Is that on rail billing?

A. That is on truck billing.

Q. On truck billing you have second morning delivery from Minneapolis to Iowa City?

A. Yes, sir.

Q. Were you present during the hearing when it was testified there is a considerable amount of traffic moving from Minneapolis to Iowa City?

Mr. Fowler: That is objected to as assuming a fact not established in this record.

[fol. 1968] Mr. Nolan: You were not here during that testimony.

Exam. Carpenter: Wait a moment until we get this straightened out.

(Discussion off the record.)

Exam. Carpenter: The objection sustained.

Mr. Nolan: That there isn't a volume of traffic moving from Minneapolis to Iowa City?

Exam. Carpenter: Off the record.

(Discussion off the record.)

By Mr. Nolan:

Q. I will ask if you were present, Mr. Peterson, during the time that Mr. Wagner Miller of Iowa City, and Mr. Slager of the Slager Hardware Company, testified that

they had a regular volume of traffic from Minneapolis to Iowa City? Were you present during that testimony?

Mr. Fowler: Is that your question, "Were you present during that testimony"?

Mr. Nolan: Yes.

A. Yes.

Mr. Fowler: Now, just a moment. All right, go ahead. Why don't you ask him what the difference is, and the time it takes by rail?

By Mr. Nolan:

Q. Now, you have told us on a truck billed shipment from Minneapolis to Iowa City it is second morning delivery?

A. Yes.

[fol. 1969] Q. What is the physical handling of a shipment from Minneapolis to Iowa City where it is on rail billing and handled all by motor truck? Now, give us the physical handling of that shipment, who picks it up, how it is worked, handled and transported.

A. To the best of my ability to tell you, the transfer company would pick up that shipment today.

Q. Let me interpose.

A. At Minneapolis.

Q. What do you mean by the "transfer company"?

A. The transfer company that picks up the freight for the railroad.

Q. An independent transfer company?

A. An independent transfer company.

Q. Not picked up by the Rock Island Motor Transit Company?

A. Not in the initial, the transfer company would take that shipment to their dock today, Monday. They would assemble those shipments at the railroad freight house, and take those shipments to the Rock Island Railroad in Minneapolis tomorrow. Tomorrow that shipment would move in the shuttle service from Minneapolis to St. Paul. If it was delivered before dinner, before noon, it would probably get in in time to get out, to get in the cars at St. Paul

the second day. If it was delivered in the afternoon it probably wouldn't, so it will be at least forty-eight hours getting out of the Twin Cities. Then it would move in a boxcar from the Twin Cities to Des Moines, and it would [fol. 1970] lose one full day at Des Moines.

Q. Why?

A. Because it would get into the East Des Moines yards and it wouldn't be set to the freight house, if it got into Des Moines in time to get on the midnight switch, it would be set; if it didn't get in in time for the midnight switch, it would lose one full twenty-four hours, which in ninety-nine per cent of the cases it does from St. Paul. So you actually have, it would be worked at the freight house and turned over to us the following day, and you would have fourth or fifth morning service from Minneapolis to Iowa City on rail billing using the boxcars.

Q. All right. Now, assuming that shipment would move entirely from Minneapolis to Iowa City by motor truck but on freight billing, what would be the physical operations in that respect?

A. The only difference would be that in place of being put in a boxcar at St. Paul it would be put in a truck at St. Paul, and you would probably save one day in Des Moines in the handling. That is your only difference.

Q. And that would be fourth morning?

A. About fourth morning delivery to Iowa City out of Minneapolis.

Q. All right. Now, going to Omaha, Mr. Heinecamp was asked if rail billed freight out of Omaha to points such as Atlantic wouldn't be just as expeditious as motor truck billed freight out of Omaha when all handled by a truck.

[fol. 1971] Mr. Fowler: Just a moment. I am going to object to that. It assumes testimony not in the record.

Exam. Carpenter: Read the question.

(Question read.)

By Mr. Nolan:

Q. What is the fact in that respect?

Exam. Carpenter: I don't believe that is exactly what was asked him if my recollection is correct.

Mr. Nolan: I made a particular note of that.
Exam. Carpenter: So I will sustain the objection.

By Mr. Nolan:

Q. I will put it this way. Mr. Peterson, will a shipment, a less than carload shipment moving from Omaha to Atlantic, Iowa, on rail billed freight when handled by a truck move as expeditiously as a similar shipment on motor truck billing, handled by the same truck on the Rock Island Motor Line?

A. In some instances it would. In the bulk of the instances it would not.

Q. And why wouldn't it?

A. In some instances if they got that freight over to the Rock Island freight depot in time for them to check it and bill it and get it over to us before five o'clock that evening, it would get the same service, but, unfortunately, the railroad has a habit of working slowly, and they do not get that freight over to us in all instances the same day it is brought in to them, and consequently it loses twenty-four hours at Omaha. When it gets to Atlantic the delay is only in waiting for them to get their expense bills. They ex- [fol. 1972] pense these at the points of destination and there is some delay there, but that generally is not over an hour or two or three, but in so many instances there is a twenty-four hour delay at the point of origin in getting that freight through the railroad freight house and getting it over to us.

Q. Now, do I understand all rail billed freight, whether it is going by boxcar or motor truck, is all billed and checked by the railroad employees, is that right?

A. That is correct.

Q. And then it is turned over to the railroad employees at the freight depot, the rail depot, and they do the checking and billing, is that correct?

A. That is correct.

Q. And then it is turned back over to your company if you are going to handle it by truck to destination?

A. That is correct.

Q. Then, when taking that same hypothetical situation at Atlantic, that freight is then delivered to the rail depot to the rail agent, or his employees at Atlantic, for checking and expensing?

A. Yes.

Q. What do you mean by expensing a shipment?

A. Well, the railroad has the forms which they use, and they make out a bill of lading that follows the freight. That [fol. 1973] bill of lading doesn't have any revenue accounting on it, as I understand it. If it does, they do not deliver on that. They make out what they call an expense bill, and deliver the merchandise on and get their receipts on.

By Exam. Carpenter:

Q. Otherwise known as a freight bill.

A. Otherwise known as a freight bill. They call it an expense bill.

By Mr. Nolan:

Q. Now, just one more situation with respect to a shipment moving from Chicago to Iowa City; one on rail billing but by motor truck from Chicago to Iowa City, and the other on motor truck billing, moving by truck, from Chicago to Iowa City. What is the difference in those two shipments, and tell us why.

A. One on rail billing and one on truck billing?

Q. Yes, but moving all of the way by truck.

A. If it is a rail billed truck, a rail billed freight movement, it would be picked up by one of the four hundred cartage companies in Chicago——

Q. Just let me interrupt there. The Rock Island Transit doesn't do any picking up in Chicago for the Rock Island Railroad?

A. We do not, and we never want to. That is picked up by one of the four hundred cartage companies in Chicago, and, as is the practice by cartage companies in Chicago, they take that to their terminal today and tomorrow they are working it and assembling it, and bring it to the [fol. 1794] railroad freight house on the second day. Then that will go to the Taylor Street freight house at Chicago on the Rock Island. Then that will move from the Taylor Street freight house to the Wells Street freight house, where we live, where we operate, either in a pickup truck or shuttle truck, but in our trucks, and if it is down there

in the morning and we get it before five o'clock, it will go out to Iowa City that night and be in Iowa City the next morning. The next morning it will be delivered to the Rock Island Railroad freight house. They will check it and move it across the imaginary line to the motor subsidiary, and they will deliver it. Now, the only difference if it is on Motor Transit bill of lading is if we pick it up today, at least ninety per cent of our freight moves out every night as an average out of Chicago, and it will be, it won't have any further delay at Chicago. It will move direct to Iowa City and be delivered the following morning to the consignee.

Q. Now, then, as I understand you, a shipment picked up on rail billing in Chicago today, would be picked up by one of the four hundred independent cartage companies, is that right?

A. That is correct.

Q. And, assuming that shipment is moving from some of the large wholesale houses in Chicago, what is the fact as to whether or not that one cartage company may not pick up shipments for all of the various railroads coming into Chicago?

A. They generally do.

[fol. 1975] Q. So that shipment is picked up today and taken then to the cartage company's warehouse tonight, is that right?

A. That is right.

Q. And it is worked generally in the cartage company's warehouse tomorrow, is that correct?

A. Either that first afternoon or the second morning.

Q. And, after it is worked and the Rock Island freight set off in one place, the Illinois Central freight in another, and the New York Central in another, it is delivered the third day, is that correct?

A. It is generally delivered the second day.

Q. The second day.

A. You lose twenty-four hours on any pick-up and delivery made by any transfer company in Chicago, and there is going to be times when it is forty-eight and seventy-two hours, but the general rule is twenty-four hours definite loss.

Q. Is it fair to say a shipment moving from Chicago to Iowa City on Motor Transit billing will arrive in Iowa City the next day, whereas if it moves on rail billing it will arrive on the third or fourth day after it is picked up originally, is that right?

A. That is correct.

Q. Now, Mr. Peterson, assuming that the same shipment, instead of moving either on, by Motor Transit billing or rail billing by Motor Transit truck, moves from Chicago [fol. 1976] part way by rail and the rest of the way by motor truck to Iowa City on rail billing, what would be the physical handling of that?

A. Well, your first two steps is the same, picked up by the transfer company, moved to the transfer company's dock, and there worked, and the second day taken over to the Rock Island Railroad freight house, which is the Taylor Street freight house, and if it got there early enough that day, it would get into the shuttle service which operates from Taylor Street to Burr Oak, which is the assembling yards of the Rock Island Railroad freight for all of the Chicago industrial and all interline traffic. There it would have to be put in a boxcar that had been moved in from the Blue Island yards, which is adjacent to Burr Oak. It would then be worked there on the third day and get out of there the third night for the fourth day's movement to Silvis. With luck it might get through the Silvis yards that night, but probably wouldn't, with luck it would get through the Silvis yards that night. It would probably be set in Iowa City on the fifth day. That is about the way it would work out. Be set and unloaded at Iowa City on the fifty day, and you would lose an extra day by going through the Burr Oak freight house, which is the assembling plant for the Chicago and suburban area.

Q. When you said the first two steps are the same on a rail billed shipment, part by rail and part by truck, or all the way through by rail, you meant, did you not, the first [fol. 1977] two steps taken by the cartage company warehouse before delivery to the rail?

A. That is right.

Q. It is the same as rail billed freight handled by truck and not on the Motor Transit freight?

A. That is correct.

Q. Now, do the same delays occur in all rail billed freight whether moving by rail by rail boxcar or by motor truck occur in the other centers of, shipping centers such as Kansas City, Des Moines, the Tri-Cities?

A. Not quite so severe. You have one step in Kansas City and Des Moines. You have one step in Chicago, which is the movement from the Taylor Street to Burr Oak, which you do not have at any other point on the Rock Island System except the movement between Minneapolis and St. Paul. You have a direct make-up at Kansas City and Des Moines which you do not have at Chicago.

Q. Now, let's take a shipment moving under your present permanent authority from Chicago, Illinois, to say Adair, Iowa. Now, as I understand it, your present authority there was to move by rail to Des Moines, be picked up at Des Moines by motor truck and taken to Adair?

A. Yes.

Q. It could not move through, even on rail billing, on motor truck transportation?

[fol. 1978] A. It could not.

Q. On account of your key point restriction at the Tri-Cities and Des Moines. Now, first taking your motor truck billing and authority, under the authority you had before there was any limitations on your authority, what would be the time from Chicago to Adair, Iowa, on a shipment?

A. It would be picked up in Chicago today, be out of Chicago tonight, be in Des Moines in the morning, would be unloaded, checked and put on the peddler truck leaving Des Moines early the following *moring*, and would get to Adair, would be delivered there around nine o'clock the second morning out of Chicago on truck billing. If that same shipment moved on rail billing, it would be picked up in Chicago by one of the four hundred cartage companies today, taken to his transfer house today and delivered to the Rock Island tomorrow. It would then be worked at the Rock Island freight house, put in the shuttle truck, and would be worked at the Burr Oak yard on the third day, getting out of Burr Oak some time the third night or the following morning. Would go to the Silvis

yards and if it got through the Silvis yards, it would be in Des Moines on the fourth morning. In Des Moines it would be worked here at Des Moines. If it got through the East Des Moines yards on the fourth morning, it would be worked here on the fourth day and get out and be delivered on the fifth day to Adair.

Q. Adair, yes.

[fol. 1979] A. With perfect luck it would be the 5th day. The chances are it would be the sixth or seventh.

Q. Now, in regard to rail billed freight, what is the source of most of that rail billed freight moving out of the Chicago area? Is that freight originated from the eastern seaboard and in the southeastern territory?

A. The Chicago freight origin that the Rock Island Railroad receives at Chicago is very predominantly freight coming from Rochester, New York, Maine, the southeast, Florida, the Carolinas. It is assembled all over the country by the other railroads. You can very easily appreciate the railroad is not going to get much Chicago business because it takes three or four days to get it out here, while trucks bring it out overnight, so the bulk of the freight moving from the Chicago gateway is coming from all over.

Q. Very little of the truck billed freight handled out of Chicago by the Rock Island Motor Transit Company originates at Chicago proper, is that right?

A. Not the truck billed freight.

Q. The rail billed freight?

A. Very little originates in Chicago.

Q. It is all interlined from some other railroad?

A. The large proportion is interlined from some other railroad.

Q. Now, a couple of other matters here. I will ask you whether or not the number of employees presently engaged by the—strike that. State whether or not the number [fol. 1980] of employees which were engaged by the Rock Island Motor Transit Company at the time of the imposition of the limitation on your operations was greater, or substantially the same, or less than the number of employees that were taken over by the Rock Island Motor Transit Company from the White Line Motor Freight Company in regard to this operation of the White Line Motor Freight Company.

A. You mean in the area of the White Line Motor?

Q. Yes.

A. Oh, there is not a great many more employees today on the actual White Line operation than there was at the time we took it over. The most of the employees we have been adding here are the result of other expansions, other than the White Line operation.

Q. And, as I understand it, when the Rock Island Transit took over the White Line operation, they took over the employees?

A. Yes, we took over all of the employees.

Q. And state whether or not you still have on the payroll of the Rock Island Transit many of those employees?

A. Oh, yes, we have a lot of them.

Q. And do many of them hold positions of, so-called executive positions, like administrative positions?

A. Yes, they do. We took over a lot of the old drivers, there were good ones, from the White Line days.

Q. Is it fair to say many of those drivers are terminal agents, and managers?

[fol. 1981] A. Most of them are still on driving jobs. They like it.

Q. Many are terminal agents?

A. Yes. Some of them are foremen down here.

Q. Now, there is one other question. What would you say was the percentage of tonnage that rail billed freight makes up in this White Line territory?

A. What percentage of the total tonnage is rail billed freight?

Q. Yes.

A. I thought I had the figures here. My figures are system-wide, the percentage. Now, just in this particular area, I would have to guess.

Q. Could you give us your best judgment on that?

A. Oh, I would say it would be somewhere between, somewhere between thirty and forty per cent of the traffic is rail billed freight.

Q. Was that prior to the limitations or since the limitations?

A. Well, the rail billed freight that we have handled has dropped since this limitation went into effect.

Q. Would that thirty or forty per cent be now, the present time, or would Mr. Cole have those figures?

A. Mr. Cole, I believe, could give you those figures.

By Mr. Howland:

Q. Mr. Peterson, you have referred to a situation that exists up at Chicago, and you say there is some four hundred odd cartage or drayage firms that have pick-up and delivery contracts with the railroad in the Chicago commercial area?

[fol. 1982] A. That is correct.

Q. Now, what is the situation up there because of the congestion, what is the practice with respect to certain of the, in fact, the majority of the shippers of freight limiting the cartage or drayage concerns with which they will do business?

A. Well, in the City of Chicago you have so many of these big industries that were built long before trucks were really in the picture, and their truck facilities is very restricted, very limited. They may have a lot of space for boxcar movement, but they don't have very much space for trucks; so, consequently, they have one cartage company doing all of their work for them, pick up all of their freight at their place, and, of course, to the various freight houses and truck lines; and also pick up their freight from these various truck lines in some cases and the rail lines, and bring it to them. They do not have the facilities to do it correctly, so consequently you have so many cartage companies and so many of them will only work for one particular company.

Q. In other words, the shippers, because of the physical limitations, limit the cartage companies that they will have perform their pick-up and delivery service for them?

A. That is correct.

Q. And is that a factor both in the pick-up and delivery service of rail freight as well as motor billed freight?

[fol. 1983] A. Yes, that is a factor in both of them.

(Discussion off the record.)

Exam. Carpenter: Now, on the record.

By Mr. Howland:

Q. Mr. Peterson, now, as I understand it, in this territory of the White Line and Frederickson routes, the compensation which the Rock Island Motor Transit Company receives from the Rock Island Railroad for performing line-haul service in the transportation of rail billed shipments is fifty-five cents per one hundred pounds?

A. That is correct.

Q. And in the cases in which, outside of this territory, generally where the Rock Island Motor Transit Company is operating with the authority limited to handling rail billed freight, you say that you are paid on a mileage basis?

A. Yes, sir.

Q. And what is the current figure per truck mile?

A. Thirty-one cents.

Q. Those have been the current rates for approximately how long?

A. Since the first of last year I believe it was.

Q. Now, of course, on any shipments that you handle on rail billed freight, you incur no expense for soliciting the freight in the first instance?

A. No.

Q. Do you have to bill that freight, or do you handle that entirely on rail billing?

[fol. 1984] A. Handle it entirely on the rail bill, and they do the pick-up and delivery. All we do is handle it, station to station. If we pick-up and deliver it, they pay us extra for that.

Q. What is the situation with respect to any claims for loss or damage to rail billed freight while handled on the trucks?

A. We pay the railroad for all damage that occurs during the transportation on our trucks.

Q. You don't participate in anything that has occurred prior, while it is in the hands of the railroad?

A. No.

Q. Counsel was asking you early in his cross-examination about an unbalanced movement of traffic, and I am not sure that I understood your answer. When you were talking about the unbalanced movement of traffic, how does that unbalance come about? By reason of the inability to

handle railroad freight, railroad billed freight out of Des Moines?

Mr. Fowler: I am going to object to that as repetition. Not proper redirect, and could just as well be answered in the morning.

Exam. Carpenter: The objection is overruled.

A. Well, if I understand your question correctly, that is brought about by this restriction. That is to state we can not handle any of the rail billed freight eastbound. We can not handle any shipments over five thousand pounds. Consequently we can not get any truckload business eastbound. We can not even get any volume shipments.

[fol. 1985] Q. Less than truckload quantities?

A. Less than truckload quantities to help balance the operation.

Q. Just one further question, Mr. Peterson. If the White Line order that you refer to, originally dated in 1949, stands up, as I understand it, the Rock Island Motor Transit Company in this territory will be confined to a peddler service on rail billed freight between Davenport and Altoona, Iowa, between Des Moines on east bound L. C. L. freight and Walcott, Iowa, between Des Moines and Council Bluffs, and between Omaha and West Des Moines?

A. That is correct.

Mr. Fowler: That is objected to as it is not a correct statement of the facts.

A. That is a correct statement of the facts.

Exam. Carpenter: The objection is overruled.

Mr. Howland: That is all I think I have tonight.

Exam. Carpenter: The hearing is adjourned until 9:30 tomorrow morning.

(At 5:10 p. m., March 31, 1952, hearing adjourned to 9:30 a. m., April 1, 1952.)

[fol. 1986] TRANSCRIPT OF PROCEEDINGS—April 1, 1952

Exam. Carpenter: You may proceed whenever you are ready.

Mr. Howland: I think we are ready for Mr. Fowler.

Mr. Fowler: Go ahead. I want to finish it up.

Mr. Howland: There are just a few things I want to ask Mr. Peterson to sort of clear up.

W. F. PETERSON resumed his testimony as follows:

Redirect examination.

By Mr. Howland:

Q. Mr. Peterson, the Rock Island Motor Transit Company performs interline service as well as originating service on traffic which it originates, does it not?

A. That it does, yes.

Q. And is that at all points of interchange with connecting carriers?

A. Yes.

Q. Now, you have that pick-up and delivery service at all points on your Rock Island Transit where you have motor carrier authority?

A. Yes.

Q. That is subject to the existing tariffs, the rate, and the minimum with respect to which the pick-up and delivery [fol. 1987] service should be performed?

A. Yes.

Q. And you have been, and are, subject to the weight limitations in handling all commodities that are tendered to you for transportation?

A. Yes.

Q. Now, does this proposal, the removal of these restrictions involve any substantial increase in the quantity of vehicles moving over the highways?

A. Not any more than it formerly did.

Q. And can you in many instances handle this increased traffic on the trucks that you are now running if the restriction is removed?

A. We always did.

Q. And that would be true in the future except for extremely large shipments or truckload quantities?

A. It would be true in all cases.

Q. Now, you have these units of equipment that you testified to yesterday, and they are available to perform the service that is covered by this application?

A. Yes, that is correct.

Mr. Howland: I am not sure that the record shows exactly the intrastate authority that the Rock Island Motor Transit Company has at the present time, and I would like to be sure.

Mr. Fowler: I do know that is objected to on the grounds [fol. 1988] it is immaterial.

Exam. Carpenter: The objection overruled. I think it is in the record, however.

Mr. Howland: I want to be certain it is covered.

By Mr. Howland:

Q. The Rock Island Motor Transit Company has intrastate authority on this route between Davenport and Des Moines without restriction, is that correct?

A. Intrastate authority from Davenport to Des Moines without exception to every point on the Rock Island Railroad, yes.

Q. And to every point that is covered, that is like Coralville?

A. Yes.

Q. Malcom, and those points?

A. Yes.

Q. Malcom, of course, is on the Rock Island Railroad, and Coralville is adjacent, but the spur into Coralville has been disconnected, as I understand?

A. The railroad is less than a half a mile from Coralville.

Exam. Carpenter: Do you have an exception out of Des Moines?

Mr. Howland: Yes. I will cover that next.

By Mr. Howland:

Q. West out of Des Moines you have some exceptions on your intrastate authority, Mr. Peterson?

A. We do not have intrastate authority to the three or four little towns between Dexter and Des Moines.

Q. Stuart?

A. We are restricted as to Dexter, Stuart and Menlo as far as Des Moines proper is concerned, but all other intra-
[fol. 1989] state points is covered to those three particular towns. All other towns on the railroad between Omaha and Des Moines are covered with intrastate authority without exception.

Q. And that is true also to Lewis and to Griswold?

A. Yes, sir.

Q. Which were formerly stations on the railroad?

A. Yes.

Q. That is true as to Treynor, is it not?

A. Yes.

Q. Now, on the Audubon branch do you have intrastate authority to serve all points between Atlantic and Audubon?

A. Yes.

Q. And on the Frederickson routes which involve Marne, Walnut, Avoca, Harlan, Corley, Shelby, Minden, Underwood and Weston, you have intrastate authority into that territory?

A. Yes.

Q. Mr. Peterson, has the Rock Island Motor Transit Company recently received any communication during the pendency of this hearing from the operator of the Roberts Transfer?

A. Yes.

Q. I will, I request at this time——

Mr. Fowler: Why don't you just read it into the record?

Mr. Howland: O. K.

By Mr. Howland:

Q. Mr. Peterson, this letter bears a "Received Stamp" R. I. M. T., from your office, March 22, 1952. It is ad-
[fol. 1990] dressed to Mr. Jenkins, Rock Island Motor Transit, 919 Walnut Street, Des Moines, Iowa. Dear Sir: And reads as follows:

"Owing to some labor difficulties and the increased labor costs, it has become necessary to rearrange our operations, and, in doing so, it will be necessary for us to discontinue the service we are rendering your line from Des Moines to Omaha, Nebraska. This will be effective March 28, 1952. Roberts Transfer. (Signed) A. W. Liston." And the letterhead indicates A. W. Liston is the owner of the Roberts Transfer. Is Mr. Jenkins the Superintendent of Operations of the Rock Island Motor Transit Company?

A. Yes.

Q. And this letter was received on or about the date it bears?

A. Yes.

Q. Now, has there been some discussion about postponing this change that Mr. Liston set out would be effective March 28, 1952?

A. He was in here to see me last week, at which time I got him to postpone the cut off until after this hearing was over, so I could go into it with him and talk it over. He can not, he claims, afford to handle even volume shipments even on a distance between Des Moines and Omaha. He claims if he has to pay the Union scale, he can not afford to handle them. He definitely told me he is going to discontinue, and he even goes so far as to say he is planning on abandoning his operation between Des Moines [fol. 1991] and Audubon because he just can not afford to do the peddling, so he has been handling our volume shipments coming up from Kansas City and coming down from Minneapolis over five thousand pounds. He has been taking and hauling those to Omaha because we can't haul over five thousand pounds west, and he has been hauling some assembled shipments from the east, but he says he can not make any money on the interline traffic, and wants to abandon. That is just exactly the position. He called yesterday and he wants to come in today. I didn't talk to him. He talked to my Secretary. He wants to come in today and make arrangements for the abandonment of the operation.

Mr. Howland: Well, I think that is all I have.

Exam. Carpenter: Cross-examine.

Recross-examination.

By Mr. Fowler:

Q. Can you give me an estimate of the volume of your interline traffic in your operation, Chicago to Omaha, in comparison to the total?

A. Do you mean from Chicago proper to Omaha proper?

Q. Along this route, take this area from Chicago, Tri-Cities, Des Moines and Omaha, with respect to the total traffic moving, what per cent would you say is received from other carriers through interline?

A. Well, at Chicago, as I recal', on our interline traffic, was approximately thirty per cent for the entire territory, but it sometimes run up as high as forty per cent. How-
[fol. 1992] ever, I think thirty per cent would be a better average, but that is the highest point for interline traffic, is Chicago.

Q. What would be your guess it was at Davenport?

A. Oh, I would say at Davenport, run down to approximately ten per cent, would be my guess, probably less than that.

Q. And Des Moines?

A. And what?

Q. And Des Moines?

A. I couldn't give you even an intelligent estimate at Des Moines.

Q. What about Omaha, do you want to make a guess on that?

A. Omaha would be less than any of them. I wouldn't even, I don't think it is even, I don't think our interline at Omaha would be five per cent.

Q. And Kansas City, is it heavy at Kansas City?

A. Kansas City would be heavier than Omaha, or any other point except Des Moines and Chicago.

Q. Would Des Moines run as high as twenty-five per cent on interstate commerce?

A. I don't believe so.

Q. And is that a fair guess? You don't have any idea?

A. I don't have any. I couldn't even give you an intelligent guess on that interline.

Mr. Fowler: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

[fol. 1993] Mr. Howland: Mr. Millett, will you come forward, please?

FRED J. MILLETT was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Your name is Fred J. Millett, and that is spelled M-i-l-l-e-t-t?

A. That is right.

Q. You live in Des Moines, and your position with the Rock Island Motor Transit Company is what?

A. Assistant to the General Freight Agent.

Q. And you have been continuously employed by both the Rock Island Motor Transit Company and the White Line Motor Freight Company for about how many years?

A. Sixteen years.

Mr. Howland: At this time I request that the document consisting of eight sheets, nine sheets, be marked for identification as Exhibit 24.

Exam. Carpenter: It may be so marked.

(The document referred to was marked as "Applicant's Exhibit No. 24, Witness Millett," for identification.)

By Mr. Howland:

Q. Mr. Millett, that is a copy of an affidavit that was made by you and filed with the original temporary authority application in this case last summer, it is not?

A. That is right.

[fol. 1994] Q. And are all of the facts and statements set forth there true?

A. They are. The bills are still on hand in our general office.

Q. Now, you were here when Mr. Cole testified with reference to, well, first——

OFFER IN EVIDENCE

Mr. Howland: I will offer and introduce at this time the document marked for identification as Exhibit 24 in lieu of having the witness testify in detail as to the facts therein set forth, and, under the concession made by counsel to shorten the hearing, that the exhibit might be offered in evidence subject to objections as to materiality and relevancy.

Mr. Fowler: I am willing to waive the verification of the facts set out in Exhibit 24. I object to it only on the grounds of immateriality.

Exam. Carpenter: The objection is overruled, and the document is received in evidence as Exhibit No. 24.

(Applicant's Exhibit No. 24, Witness Millett, was received in evidence.)

By Mr. Howland:

Q. Mr. Millett, Exhibit No. 16 is a tabulation and summary of the interstate shipments received by the Rock Island Motor Transit Company from connecting line carriers at Chicago, Illinois, Davenport, Cedar Rapids, Iowa, Des Moines, Iowa, and Omaha, Nebraska, with destinations at points covered by the application during the months of November and December, 1950 and 1951. You are familiar with that exhibit in a general way, are you not?

[fol. 1995] A. I am.

Q. And I notice that according to this exhibit, which relates only to shipments less than five thousand pounds, that in the two months of 1950 there were 2140 interline shipments received at Chicago, and only 1492 received in November and December, 1951, with a drop in tonnage of 1,094,920 pounds to 662,186 pounds; whereas at Des Moines there was a drop from 456 shipments to 182 shipments in the comparable period of 1951. Have you observed in connection with the traffic of the Rock Island Motor Transit Company any continued, or any change in

the traffic from interline carriers between January 1st and the present day?

A. At Chicago I don't believe there has been much of an increase. At Des Moines, formerly some of that traffic was no doubt given to our competitors, and since January it has started coming back again.

Q. Do you have any definite figures on that?

Exam. Carpenter: Off the record.

(Discussion off the record.)

Exam. Carpenter: Back on the record.

A. In November, 1950, at Des Moines we received 456 interline shipments, 134,593.

By Mr. Howland:

Q. That is November and December, 1950?

A. That is right, November and December, 1950. In November and December, 1951, there was 282 shipments, [fol. 1996] 45,286. During that period the biggest reduction was from Watson Bros., in 1950 we received 167 shipments, and in 1951, 8. In 1950 we received 61 shipments from Merchants, and none in the period of 1951. From Keeshin we received 12 shipments in 1950 and none in 1951. From the Des Moines Trans. we received 22 in 1950 and in 1951, 11. From Bruce we received 83 in 1950 and 18 in 1951. From Bos Freight Lines we received 17 in 1950 and 43 in 1951. That was the only increase.

Q. Now, you have, since January 1, 1952, there has been some increase in shipments received from certain of these interline carriers?

A. That is right.

Q. Over the months of November and December, 1951?

A. That is right.

Q. And about what has that represented as you have observed it?

A. Well, as near as I can tell from the bills that we have, the first two months of this year, the shipments no doubt they were given to other carriers for these peddle points. They have either embargoed them or told them

they didn't want them, and, naturally they had to give them back to us.

Mr. Fowler: Just a minute. What was the question and the answer?

Exam. Carpenter: Read the question and the answer.

(Question and Answer read.)

Mr. Fowler: I move to strike the answer as not re-
[fol. 1997] sponsive, calling for hearsay, and calling for an incompetent conclusion.

Mr. Howland: That part, I will agree that part with respect to "They either didn't want them or embargoed them so they had to give them back to us", you can strike that.

Exam. Carpenter: The portion may be stricken.

By Mr. Howland:

Q. The question, Mr. Millett, was with respect to, about the number of shipments that have been handled in interchange since the first of January compared with that period immediately before January 1st that was covered in the exhibit. That is, can you tell us anything about the number of those shipments that can be coming back since the first of January, 1952?

A. I haven't had a chance to run the complete totals. I take these from the Auditor of our bills, and the only thing we can do is count the shipments that were interlined from our interline records.

Q. You don't have the number, then, but you do know there are certain of the carriers, there has been an increase in interline shipments?

A. That is right.

Q. Back to the Rock Island Motor Transit Company. What principal carriers have you observed that has been true with respect to?

A. I believe Bruce has been giving us a few more shipments, and Watson, and some Brady.

[fol. 1998] Q. What was the last?

Exam. Carpenter: Bruce, Watson and Brady.

By Mr. Howland:

Q. And how about the Merchants Motor Freight?

A. I haven't observed too much of Merchants.

Q. Mr. Millett, are there in the Tri-City area, in Des Moines and Omaha plants of various types and kinds that are engaged in the production of Government materials in connection with the Defense Program?

A. Yes, there is, and Newton, Iowa, too.

Q. And Newton, Iowa. Does the Rock Island Motor Transit Company serve the Rock Island Arsenal at Moline, Illinois?

A. They do.

Q. I believe that Arsenal is at Rock Island, Illinois.

A. At Rock Island, Illinois.

Q. Are there other plants in the Tri-City area, both on the Iowa and Illinois side that are engaged in the construction of military orders and producing military goods?

A. There are several in Davenport. I believe one that has a big Navy contract, that is in Bettendorf, or a little bit north of Davenport, towards Clinton. Of course, in Rock Island, Moline and East Moline there are several large contracts. There is a large contract at Newton. I believe there is three concerns in Newton that are on Defense contracts now. At Des Moines there are several large ones and several small ones. At Omaha there is several, one large one, I think, and several small ones, [fol. 1999] Defense contracts.

Q. And during the period of World War 2, did the Rock Island Motor Transit Company handle the movement of Defense materials and finished goods to and from this general area?

A. Yes, they did.

Q. And was that a substantial volume?

A. That was a very large volume.

Q. And, generally speaking, do those movements of Defense materials and war orders move in quantities in excess of five thousand pounds?

A. They do, and also on a Government bill of lading.

Mr. Howland: This is an exhibit to the application.

Exam. Carpenter: Off the record.

(Discussion off the record.)

Mr. Howland: At this time we request that the map of the State of Iowa bearing certain legend be marked for identification as Exhibit 25.

Exam. Carpenter: It may be so marked.

(The map referred to was marked as "Applicant's Exhibit No. 25, Witness Millett," for identification.)

By Mr. Howland:

Q. Mr. Millett, did you have anything to do with making up the map now marked for identification as Exhibit 25?

A. I did.

Q. And that shows in general the lines of the Rock Island [fol. 2000] Motor Transit Company in red?

A. That is right.

Q. Across the State of Iowa, and it shows the routes of certain connecting carriers in other colors?

A. That is right.

Q. And it shows the principal points of interchange within the State of Iowa between the Rock Island Motor Transit Company and the connecting lines?

A. That is right.

OFFER IN EVIDENCE

Mr. Howland: We offer and introduce in evidence Exhibit 25.

Exam. Carpenter: The document identified as Exhibit 25 is received in evidence.

(Applicant's Exhibit No. 25, Witness Millett, was received in evidence.)

Exam. Carpenter: Off the record.

(Discussion off the record.)

By Mr. Howland:

Q. Mr. Millett, you handle matters of divisions of interline rates with connecting lines for the Motor Transit Company, and have for many years?

A. I have.

Q. What is the usual basis on interline divisions between connecting line carriers in this territory?

A. In this territory and practically throughout our entire system, with maybe a very few exceptions, it is all based on what we call the first class prorate. In other words, a [fol. 2001] shipment coming from Cleveland to Chicago, we will say, the first class rate would be prorated as the basis of 1740, which I believe was $1.03 to Chicago and $1.24 from Chicago to Des Moines, and adding those two together would produce $2.27, of which we will get 124/227ths.

Q. In other words, the usual division is on the mileage prorate basis on the first class rate?

A. Not on a mileage prorate. It is on a first class prorate.

Q. A first class prorate, but the first class prorate involves the comparison of the two rates, so that each carrier gets its proportion?

A. That is right.

Q. Now, you were familiar with the business conducted by the White Line Motor Freight Company prior to the time it was taken over by the Rock Island Motor Transit Company, I take it?

A. Yes, sir.

Q. What was the fact as to the proportion of truckload and volume shipments handled by the White Line Motor Freight Company compared with that handled by the Rock Island Motor Transit Company after the Rock Island Motor Transit Company took over the operation up to the summer of 1951?

Mr. Fowler: I object to it as immaterial and calling for hearsay evidence, no foundation laid, purely conjectural and speculative.

Exam. Carpenter: The objection overruled.

[fol. 2002] A. While I was with the White Line we handled considerable truckload traffic. When the Rock Island took over we retained a portion of it, not all of it, and even after the Rock Island took over we still continued to handle a substantial volume of truckload traffic. I can not recall

just the per cent of the truckload over less than truckload. We have made studies of it continuously.

Q. During the White Line days, as I understand it, the proportion of truckload traffic was greater than during the period of operation by the Rock Island Motor Transit Company prior to the imposition of these restrictions?

Mr. Fowler: That is objected to as immaterial and for the reasons urged with respect to the previous question.

Exam. Carpenter: The objection overruled.

A. Will you read the question?

Exam. Carpenter: Read the question.

(Question read.)

A. Well, in the White Line days, part of it was before regulation, and after regulation I believe to a certain extent your volume traffic continued as it has continued all through, but prior to regulation it was just a question of whether you could get a few back-hauls especially that was true. After regulation when the regular rates went in, they handled considerable back-haul traffic on truckload at volume rates. Upon acquisition by the Rock Island Transit, we [fol. 2003] continued to handle a large portion of that; although some of it, I would presume, either went to other carriers or may have been extinct. In comparison to the volume we don't have, have never handled between Chicago and Des Moines the volume of truckload traffic we handled under the White Line authority.

By Exam. Carpenter:

Q. What about the rest of the White Line rights?

A. The rest of it has possibly held its own.

By Mr Howland:

Q. Well, the local service of the Rock Island Motor Transit Company has been increased over the White Line operation, has it not?

A. Considerable.

Q. So far as serving the intermediate points?

A. That is right.

Q. And that traffic, what is the fact as to whether that traffic has increased considerably over the volume handled by the White Line?

Mr. Fowler: That is objected to as immaterial.

Exam. Carpenter: The objection overruled.

A. We have handled considerable less than truckload, shipments less than ten thousand pounds, we have on the Rock Island Motor, more than we ever handled on the White Line.

Mr. Howland: Off the record.

Exam. Carpenter: Off the record.

(Discussion off the record.)

[fol. 2004] Mr. Howland: At this time I request that the letter written on the letterhead of the Keeshin Motor Express Co., Inc., dated March 18, 1952, Subject "Receiving freight from connecting lines at Cedar Rapids, Iowa," be marked for identification as Exhibit 26.

Exam. Carpenter: It will be so marked.

(The letter referred to was marked as "Applicant's Exhibit No. 26, Witness Millett," for identification.)

By Mr. Howland:

Q. Now, Mr. Millett, the Keeshin Motor Express Co. is a carrier doing business at Cedar Rapids, at Des Moines, and at the Tri-Cities, is it not?

A. Yes, sir.

Q. And has the Rock Island Motor Transit Company within the last two weeks received the letter marked for identification as Exhibit 26?

A. We have.

Q. And do you know what has been done with respect to putting this embargo on interline shipments at Cedar Rapids as of Monday, March 24, 1952?

A. It applies only on interstate commerce, and they will interchange now only at the Tri-Cities or Des Moines for all points on their line in the State of Iowa.

Q. And they are not receiving any interstate shipments in interline service at Cedar Rapids, Iowa, except from the H & W Motor Express and A. W. Schmidt?
[fol. 2005] A. That is right.

OFFER IN EVIDENCE

Mr. Howland: We offer and introduce in evidence Exhibit 26.

Exam. Carpenter: Any objection?

Mr. Fowler: It is objected to as immaterial.

Exam. Carpenter: The objection overruled. The document is received in evidence as Exhibit No. 26.

(Applicant's Exhibit No. 26, Witness Millett, was received in evidence.)

A. That also covers the National Freight Lines, which is a subsidiary of Keeshin, too.

By Mr. Howland:

Q. The Keeshin Motor Express and the National Freight Lines are two affiliated carriers?

A. That is right.

Q. And has that embargo been incorporated in a tariff published by the Keeshin Motor Express?

A. That was embraced in Middlewest Tariff No. 201, MF-I.C.C. 209.

Q. That is effective when?

A. The original effective date was February 7th, and reissued on March 26th.

By Exam. Carpenter:

Q. Was it published as an embargo?

A. No, it is not an embargo. It is a routing, junction points, interchange points.

By Mr. Howland:

Q. Will you read into the record the statement as it appears in the tariff which you have with respect to the [fol. 2006] interchange at Cedar Rapids?

A. Section 3.

Mr. Fowler: Dictate into the record your interpretation of the tariff.

A. Section 3 of Middlewest Tariff 201 covers the name of the carriers, the points they will interchange, and the connecting carriers that they will interchange with, which is known as the routing section for all Middlewest Tariffs.

By Mr. Howland:

Q. And what does it say with respect to Cedar Rapids, Iowa?

A. Cedar Rapids, Iowa, the interchange point of Cedar Rapids, Iowa. The connecting line is the H & W Motor Express Company and Schmidt Transfer Company, are the only two carriers they will interchange with at Cedar Rapids.

Q. To whom do you refer when you say "They will interchange"?

A. Keeshin Motor Express Co., Inc., and their affiliated companies, including the National Freight Lines, Inc.

By Exam. Carpenter:

Q. Does that only include the interchange point of Cedar Rapids, does it not?

A. That is right.

Q. Did you not mention an interchange point of Des Moines in your testimony?

A. They will interchange with us at Des Moines and Moline.

Exam. Carpenter: That is all. Proceed.

Mr. Howland: You may cross-examine.

[fol. 2007] Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Fowler:

Q. The interchange restriction at Cedar Rapids could arise from an operating, change in operating conditions, could it not?

A. It could.

Q. As a matter of fact motor carriers designate the points at which they will receive and interchange freight, do they not?

A. Usually any place they maintain terminals they show their present interchange.

Q. Isn't it the fact many carriers, either by tariff or by arrangements with you, select the point they prefer to have interchange?

A. Not necessarily.

Q. You have such an arrangement with the H & W now, don't you?

A. We interchange with them at Des Moines, Cedar Rapids or Davenport, the three connections we have with them.

Q. You heard Mr. Peterson testify they select an interchange point that suited their operating convenience?

A. That is right.

Q. And that is true with many carriers, isn't it?

A. I don't believe it does.

Q. Well, isn't it true, or are you aware of the fact that due to a change in the operating setup of Keeshin, they prefer to interchange at Des Moines and the Tri-Cities [fol. 2008] rather than at Cedar Rapids? Are you aware of that?

A. I am.

Q. So what they have done, have said by that change in the tariff, they have said we prefer to interchange with the Rock Island Motor Transit at Des Moines and the Tri-Cities instead of Cedar Rapids, isn't that correct?

A. They have restricted it to Des Moines and Moline.

Q. You say they have or they have not?

A. They have restricted it to Des Moines and Moline.

Q. In other words, they will accept interchange traffic with you at the points of Des Moines and the Tri-Cities?

A. That is right.

Q. And they have said to you they don't want to interchange with you any more at Cedar Rapids?

A. That is right.

Q. But they will continue to interline with the H & W and this other carrier at Cedar Rapids?

A. That is right.

Q. Now, I ask you whether that isn't a general thing among the motor carrier industry, and is influenced entirely by operating conditions?

A. I wouldn't say so.

Q. All right. Now, you were talking about the interchange situation at Des Moines. The originating carrier, if a routing instruction is given to him as to the interline car-
[fol. 2009] rier, is required to deliver it to the specified carrier, is he not?

A. That is correct.

Q. And if these shipments are directed to be delivered to the Rock Island Transit by the shipper, it is the obligation of the originating carrier to turn them over to the Rock Island, isn't that true?

Q. Yes, sir. Have you been making any special drive

A. It is their obligation.

lately to obtain those routing instructions?

A. No.

Q. Have you been making any contact with shipments to obtain routing instructions within the last sixty days?

A. Yes, we are continually.

Q. You continually solicit routing instructions from shippers?

A. Sure.

Mr. Fowler: That is all I have.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Howland:

Q. Mr. Millett, is it your understanding that the originating carrier is required to follow the routing instructions on motor carrier billing and make delivery only over the route specified?

A. There is no ruling in the Motor Carrier Section of the Act that requires a carrier to deliver to the routing shown on the bill of lading.

[fol. 2010] Q. And there are instances that more or less freqently arise where the routing instructions set forth on the original billing is disregarded, isn't that true?

A. Very true.

Q. The tariff restriction at Cedar Rapids with respect to Keeshin applies to interchange at that point on interstate traffic with all carriers except the H & W and Schmidt?

A. That is right.

Q. As I understand it, it isn't confined to the Rock Island Transit?

A. No, all carriers except those two.

Q. Mr. Millett, are you familiar with the tariff provisions with respect to the handling of freight by motor carriers which is sometimes referred to as the Kipp's Tariff provision, by which motor carriers may transport certain rail billed freight?

A. I am.

Q. And you have that tariff provision here?

A. I don't have the tariff here.

Q. Can you give us the substance of that tariff provision and the manner in which it operates?

A. In Kipp's Substituted Tariff, I believe it is 1-I, I am not sure of the number on that, and throughout the tariff will list the carrier, the rail carrier, the towns or territories served, and the motor carrier with which they may substitute motor carrier service for rail service.

[fol. 2011] Q. And what is the situation with respect to the motor carrier who desires to become a party to that tariff? What does he have to do?

A. He must file his power of attorney for approval with the Commission, and if it is approved, it is filed.

Q. And does he become a party to that arrangement?

A. Yes, he has to become a party to that effect.

Q. Well, what is the effect of that, how does it operate?

A. Well, the operation of that is, we will take any point or any certain railroad that would originate a shipment on rail billing, moving to, take as an example, from, the shipment originates, we will say, in South Bend, Indiana. It is moved by rail to Chicago, and from Chicago it is transferred to any of the Western Lines, and we will say it goes to Ames, Iowa, and any carrier that is a party to this, it shows it would be interchanged at Ames, or maybe any town beyond on their motor line, will substitute motor carrier service for rail carrier service into that town.

Q. Those participating in the tariff?

A. That is right. They have to become a participant.

By Exam. Carpenter:

Q. That is motor carrier service from Chicago to Ames, or any point beyond?

A. It could become any carrier.

Mr. Fowler: You didn't pay attention to what he asked.

A. You say motor carrier service?

[fol. 2012] By Exam. Carpenter:

Q. Motor carrier service from Chicago?

A. I don't know of any motor carrier service from Chicago.

Q. Where are you getting the motor carrier service from?

A. It would be like from Ames to the destination of the shipment.

Q. In other words, it is rail service from South Bend to Ames?

A. That is right.

Q. And motor carrier service from Ames to a destination beyond?

A. Yes, or it could be Des Moines, or any place.

By Mr. Howland:

Q. Now, the Merchants Motor Freight, or Des Moines Transportation, or Watson could become a party to that tariff as well as the Rock Island Motor Transit Company?

A. That is right.

Q. And so, as I understand it, if any motor carrier was participating in this tariff, it could perform the substituted service in lieu of the rail carrier, is that correct?

A. They can, and I believe, if it hasn't been changed, there was an Omaha carrier used to haul rail freight from Omaha to Chicago for the North Western Railroad, or for one of the railroads. It seems to me it was the North Western.

Q. And that shipment would move on rail billing?

A. It would move on rail billing. I am not sure but I think the line was the On-Time.

Q. Well, the Rock Island Motor Transit Company, as I understand, is a participating carrier in this Kipp's tariff [fol. 2013] that you referred to?

A. That is right.

Q. And that same arrangement could be made by other motor carriers who become parties to that tariff and who make the arrangements with the rail carriers?

A. Yes, and there are carriers in that tariff in this territory.

Q. And could you name some of them?

A. I believe Brady's substitution of the M. & St. L. is handled in that same manner, the Commercial Cartage Company, though.

Q. The Commercial Cartage Company.

A. I can't say it is Brady, but it goes under the head of Commercial Cartage.

Mr. Howland: That is all I have.

Exam. Carpenter: Cross-examine.

Recross-examination.

By Mr. Fowler:

Q. As a matter of fact the setup between the Commercial Cartage Company and the M. & St. L. is to be a contract operation, so much a mile?

A. I don't know the contract agreement.

Q. If I tell you that is what it is you won't doubt my word?

A. I wouldn't. They are a party, I am pretty sure, to the same tariff.

Q. The tariff you are talking about, is that by joint arrangement?

A. By substitution only, no joint arrangement.

[fol. 2014] Q. What is the fact, the rail rate applies on your typical shipment from South Bend to Ames?

A. That is right.

Q. And is it put on motor truck billing at Ames?

A. No.

Q. Then, is the rate a through rate or a joint rate?

A. It is a through rate.

Q. It is a joint rate in which the carriers participate?

A. There are no rates in this tariff. This is only a substituted service.

Q. I understand that. The effect of it, the participating carriers, rail and motor, would participate in the revenue.

A. Under a contract basis.

Q. On a contract basis. In other words, the railroad hires the motor carrier to handle the freight from Ames to the destination point rather than to take it there by way freight?

A. That is right.

Redirect examination.

By Mr. Howland:

Q. It is not a joint through rate?

A. The substituted tariff does not cover rates, just the substituted service. The tariff would name the rate.

By Exam. Carpenter:

Q. It is a through all rail rate?

A. It is a through all rail rate, yes.

By Mr. Nolan:

Q. Now, Mr. Millett, as I understand, the purpose of the Kipp's Tariff is to provide an exception for the motor car-[fol. 2015] rier to charge a different rate to the rail company where it is peddling and handling rail billed traffic, isn't that true. It is an exception to the motor carrier's published rate, isn't that true?

A. Well, I wouldn't say it is an exception. It is an agreement.

Q. Well, I mean it permits the motor carrier to enter into a separate transaction or agreement with the railroad company to perform substituted motor truck service?

A. That is right.

Q. And where the motor carrier and the rail carrier may enter into, as to the charges and cost of handling that service, that is between the parties?

A. That is right.

Q. The Kipp's exception permits a motor carrier to not charge his regular rates in that particular area for that particular service?

A. That is right. If he wasn't a party he would have to pay the combination of local rates.

Q. That is right. If he wasn't a party to that Kipp's Tariff, he would have to charge his local rate for the service the motor carrier performed for the railroad?

A. That is right.

Mr. Nolan: That is all.

Recross-examination.

By Mr. Fowler:

Q. That shipment moves on a rail billing throughout? [fol. 2016] Correct?

A. That is right.

Q. And the truck operator who handles the shipment at the tail end gets paid by the railroad?

A. That is right.

Q. On a contract basis?

A. On a contract or division basis, whatever they use.

Mr. Fowler: That is all.

Exam. Carpenter: You are excused.

Mr. Howland: That is all, Mr. Millett.

(Witness excused.)

Exam. Carpenter: Is that all?

Mr. Howland: Well, maybe. Just a moment to confer over here.

Exam. Carpenter: Off the record.

(Discussion off the record.)

Exam. Carpenter: We will take a five minute recess.

(Short recess.)

Exam. Carpenter: You may proceed.

Mr. Howland: I think that concludes the applicant's case in chief, if the Examiner please. We will rest our case at this time.

Mr. Fowler: At this time the protestants request that this hearing be recessed for at least thirty days, at which time they will go forward with their evidence.

[fol. 2017] TRANSCRIPT OF PROCEEDINGS—
MAY 20, 1952

Exam. Carpenter: The Interstate Commerce Commission has assigned this time and place for continued hearing in Docket No. MC-29130 Sub-No. 70, Rock Island Motor Transit Company application for permanent general commodity authority, with exceptions, over designated routes as specified in the application.

Are there any additional appearances?

Mr. Huston: Walter V. Huston, 4105 Main Street, Kansas City 2, Missouri, appearing for Knaus Truck Lines, Inc., protestant. I am an attorney and registered practitioner.

* * * * * * *

[fol. 2024] ———

C. A. GRACEY was sworn and testified as follows:

Direct examination.

By Mr. Cohn:

Q. Will you state your name and place of residence?

A. C. A. Gracey, Avoca, Iowa.

Q. What is your business or occupation?

A. Vice President, Iowa-Nebraska Transportation Company, Inc.

Q. How long have you been associated with Iowa-Nebraska Transportation Company?

A. Since November, 1942.

Q. And you have been continuously associated with the company since 1942. Is that correct?

A. Yes, sir.

Q. And you have devoted your full time to business of the company?

A. Right.

Q. Are you thoroughly conversant with operations of the company?

A. Yes, sir.

Q. What are your general duties with the company?

A. Mostly assisting the president and general managing [fol. 2025] of operations.

Q. What is the business of the Iowa-Nebraska Transportation Company?

A. Transportation of general commodities and specific commodities.

Q. And are operations conducted pursuant to Certificate of Public Convenience and Necessity issued by the Interstate Commerce Commission?

A. Yes, sir.

Q. And have you caused to be made for purposes of this hearing true and correct copies of Certificate issued your company by the Commission?

A. Yes, sir.

Q. And do you have copies of that?

A. I do have.

Mr. Cohn: I would like to ask that this document consisting of three pages be identified in the record.

Exam. Carpenter: The document may be identified as Exhibit 27.

(The document referred to was marked as "Intervenor's Exhibit No. 27, Witness Gracey," for identification.)

By Mr. Cohn:

Q. I will ask you to refer to Exhibit 27, for identification, and ask whether that is a true and correct copy of Certificate of Public Convenience and Necessity No. MC-[fol. 2026] 47619 issued to your company by the Interstate Commerce Commission?

A. It is.

Q. And is that Certificate still in full force and effect, to your knowledge?

A. Yes, sir.

Q. Where is the principal office of the Iowa-Nebraska Transportation Company located at the present time?

A. Avoca, Iowa.

Q. What facilities are maintained at Avoca by your company? Do you have a terminal and office?

A. Terminal and office space. Yes.

Q. Do you also maintain terminals and offices at other points on your system?

A. Yes, sir.

Q. What are the points?

A. New York, New York, Chicago, at Des Moines and Omaha, Nebraska.

Q. Now, at those points does your company maintain full-time employees?

A. Yes, sir.

Q. Do you provide pick-up and delivery service?

A. Yes, sir.

Q. Now, in addition to the terminals and offices maintained at points you named, do you also maintain agents [fol. 2027] at points on your system?

A. Yes, sir.

Q. At what points?

A. We maintain one at Davenport, Iowa City, Cedar Rapids, Marshalltown, Sioux City, Ames, Nevada, Boone—I believe that's all.

Q. What is the nature of the agents you maintain at these latter points?

A. They are cartage companies for final delivery.

Q. Independent cartage companies at those points named?

A. Right.

Q. And do they handle pick-up and delivery at those points?

A. Right.

Q. How many motor vehicles does your company own?

A. 8 straight jobs or trucks, 22 tractors, 23 trailers.

Q. Now, in addition to the motor vehicle equipment your company owns are there other motor vehicles your company leases on a long-term lease arrangement?

A. Yes, sir.

Q. How many of those?

A. 42 complete units.

Q. 42 additional tractors and 42 additional trailers?

A. Right.

Q. Are they under long-term lease?

A. Under trip lease.

[fol. 2028] Q. Now, are the books and records of the company kept under your supervision and control?

A. At Avoca, yes, sir.

Q. Have you caused to be prepared from the books and records of your company certain financial data reflecting

the present financial status of your company and also results of recent operations of your company?

A. I have.

Q. Do you have those documents here?

A. Yes.

Mr. Cohn: I ask that this document consisting of one page, entitled "Financial Statement as of March 31, 1952," be marked for identification.

Exam. Carpenter: It may be identified as Exhibit 28.

(The document referred to was marked as "Intervenor's Exhibit No. 28, Witness Gracey," for identification.)

By Mr. Cohn:

Q. Exhibit 28 for identification was prepared by you or under your supervision, was it not?

A. Yes, sir.

Q. Does that statement correctly reflect the financial condition of Iowa-Nebraska Transportation Company as taken from the books and records of the company as of March 31, 1952?

A. It does.

Q. You have also caused to be prepared for purposes of this hearing an operating statement for the three month [fol. 2029] period ended March 31, 1952, have you not?

A. Yes, sir.

Mr. Cohn: I would like to ask that this document containing one page and entitled "Operating Statement as of March 31, 1952," be marked for identification.

Exam. Carpenter: It may be identified as Exhibt 29.

(The document referred to was marked as "Intervenor's Exhibit No. 29, Witness Gracey," for identification.)

By Mr. Cohn:

Q. And was Exhibit 29 for identification likewise prepared by you or under your supervision?

A. Yes, sir.

Q. And the source is books and records of your company?

A. Yes, sir.

Q. Does that correctly reflect the operating statement of your company for the three months' period ended March 31, 1952?

A. It does.

Q. And indicates a net operating income after deduction of normal operating expenses, $4,395.01, based on total revenue of $255,606.35. Is that correct?

A. It does.

Q. That indicates an operating ratio of approximately what?

A. Approximately 98%.

Q. You are familiar with the scope of the application which is being considered in this proceeding, are you not?

[fol. 2030] A. Yes, sir.

Q. So far as the territory involved in this application is concerned your company is presently engaged in serving a number of the communities for which authority is requested by the applicant?

A. Communities on Highway 6.

Q. You are presently serving all points located in the State of Iowa located on U. S. Highway 6?

A. Correct.

Q. And also Omaha, Nebraska?

A. Right.

Q. Your company also conducts an operation over Iowa Highways 83 and 64 between Atlantic and Omaha, serving all intermediate points, does it not?

A. Yes, sir.

Q. And also conducts an operation between Cedar Rapids and Iowa City, Iowa, over U. S. Highway 218?

A. Right.

Q. Now, Mr. Gracey, I would like to ask you to refer to the official docket of the Commission, particularly to Item 3 and exhibit attached to the application, which is a list of points to which service is sought to be per..ned by the applicant, and I will ask you to refer to the points shown in that item and state for the record only the points which you are not now presently serving that are shown on that list.

[fol. 2031] A. I am not certain where Moscow, Iowa, is located.

Mr. Fowler: It is east of Wilton Junction.

By Mr. Cohn:

Q. I will ask you to refer to the official map of the State of Iowa and locate the Town of Moscow?

A. It is located on Highway 6.

Q. Is your company presently serving all points on U. S. Highway 6?

A. On Highway 6.

Q. Will you refer to the item attached to the application and state to which points you are not now rendering service?

A. Shelby, we do not render service there; South Amana, Muscatine, Iowa, East Moline, Illinois.

Q. Is East Moline listed on that exhibit?

A. Yes, sir. Moline, Rock Island, Silvis, Audubon, Brayton, Iowa, Carson, Iowa, Exira, Iowa, Griswold, Hamlin, Lewis, Hancock and I don't know where Lorah is.

Mr. Howland: It is intermediate between Atlantic and Audubon.

A. We do not make that one to the best of my knowledge. We serve all other points other than I have named.

By Mr. Cohn:

Q. You don't serve Stockton and Walcott which are off-route points?

A. No. I think I mentioned that.

Q. And Walcott is an off-route point you do not serve.

Now, Mr. Gracey, in connection with service that your [fol. 2032] company is presently providing to the points involved in this application lying along U. S. Highway 6 and over Iowa Highways 83 and 64, is service being provided to those points under peddler service?

A. Right.

Q. Is your company also providing peddler service with respect to Cedar Rapids and Iowa City on U. S. Highway 218?

A. Yes, sir.

Q. Now, the communities that you are presently serv-

ing over these highways 6, 83, 64 and 218, are you providing both pick-up and delivery service to the communities?

A. Delivery service yes and pick-up where traffic demands it.

Q. Do you handle interline freight that is picked up and delivered at these points?

A. Yes, sir.

Q. What are the points at which you receive freight delivering it to these points on your system?

A. Chicago, Des Moines and Omaha, Nebraska.

Q. And likewise you turn over to connecting lines at the three points you have named freight that is destined to points beyond your line which is picked up in these communities?

A. Yes, sir.

Q. Now, can you advise the Commission as to the method you employ in connection with peddle runs you operate in the territory involved in this application? First Omaha. [fol. 2033] Do you have peddle runs originating in Omaha?

A. Yes, sir.

Q. Explain how you conduct that?

A. We have two methods of conducting business out of Omaha. One is direct pick-up from Omaha shippers and it is sent out the same night to towns in Iowa of Harlan, Avoca, Atlantic, Walnut, Marne and Oakland and any towns intermediate on Highway 63—83, I should say, between Avoca and Atlantic; also traffic is loaded on truck and goes on Highway 6, taken to Des Moines, which is an overnight run, and peddled back the next morning.

Q. A daily operation?

A. Yes, sir.

Q. How many trucks are regularly employed in peddle-run service?

A. Five.

By Exam. Carpenter:

Q. That is on both runs?

A. Right.

By Mr. Cohn:

Q. How many days a week is service performed?

A. Six.

Q. Now, do you also deliver to any points between Des Moines and Omaha on highway equipment?

A. Yes, sir.

Q. What would be the occasion for the use of highway equipment in serving any of the points?

[fol. 2034] A. The main service to points on Highway 6 between Omaha and Atlantic is served out of the Des Moines terminal on over-the-road equipment each and every day.

Q. Do you also operate any peddle service at Des Moines?

A. Yes, sir.

Q. Will you explain your method of operation of peddler service at Des Moines?

A. We operate three peddler runs out of Des Moines each day, one north covering Ames, Boone and Highway 30 to Jefferson, and one east to Tama and Cedar Rapids.

Q. And how many trucks are ordinarily employed in connection with that peddler service?

A. One for the north run and one for the east and a third truck, as already mentioned, goes west to Atlantic.

Q. How many days a week is that service offered?

A. Six days a week if traffic demands it and five days for sure.

Q. Where demand justifies it is offered six days a week?

A. Right.

Q. Does your company provide service to communities on Highway 6 lying west of Davenport?

A. Yes, sir.

Q. What method is employed by your company in serving those communities?

A. Out of Chicago.

Q. By highway truck?

[fol. 2035] A. Yes.

Q. How frequently is your truck operated between Chicago and those communities?

A. Whenever traffic demands.

Q. Is that both truckload and less than truckload service?

A. Yes, sir.

Q. Has the traffic demanded daily service into those communities during the current operation?

A. Yes, sir.

Q. And you are operating then a daily service into the communities west of Davenport, Iowa?

A. Yes, sir.

Mr. Cohn: If the Commission please, we have prepared a summary of the witnesses who have appeared previously in this proceeding on behalf of the applicant which we would like to have identified in the record at this time.

Mr. Howland: What is the object of this?

Mr. Cohn: We would like to present this abstract of the shipper witnesses for identification for purposes of reference by this witness in connection with his direct testimony.

Exam. Carpenter: It may be identified as Exhibit 30.

(The document referred to was marked as "Intervenor's Exhibit No. 30, Witness Gracey," for identification.)

By Mr. Cohn:

Q. Mr. Gracey, I would like to ask you to refer to Ex-
[fol. 2036] hibit 30, for identification, a listing of the shipper witnesses who appeared in support of the application in this proceeding, and ask you to state whether at the present time your company is rendering service at the points shown in the exhibit?

A. At the towns shown?

Q. Yes, sir.

A. We serve Adair, Iowa, Altoona, Iowa, Anita, Atlantic, Iowa, Casey, Iowa, Cedar Rapids, Colfax, Coralville, Council Bluffs, Davenport, Des Moines, Dexter, Durant, Grinnell, Harlan, Iowa City, Ladora, Marne, Marengo, Menlo, Minden, Mitchellville, Newton, Neola, Omaha, Nebraska, Oakland, Iowa, Stuart, Iowa, Tiffin, Underwood, Walnut, Wilton Junction.

Q. And do you recognize as you go through the list familiar names in the listing of shippers at these various points—that is shippers whom you are presently serving at these points?

A. They are consignees rather than shippers we have served.

Q. And are you presently serving a great number of these shippers that are shown on this list?

A. Yes, sir.

By Exam. Carpenter:

Q. Those are actually shippers or are they served as inbound consignees?

A. I mentioned that they were consignees.

By Mr. Cohn:

Q. That is you are making deliveries at these points to a number of consignees who are shown on this list as ship- [fol. 2037] per witnesses?

A. Right.

Q. Is that on less than truckload shipments in most cases?

A. In most cases it is less truckload shipments.

Q. Now, your company participated as intervenor in opposition to request for temporary authority filed by this applicant. Is that right?

A. Yes, sir.

Q. And in those proceedings your company presented certain data in connection with operations conducted in the territory, showing representative shipments and points of service?

A. We did, yes, sir.

Q. Have you caused to be prepared for purposes of this proceeding certain representative shipments in abstract form indicating the services that have been performed since the date of information furnished at the hearing on temporary authority?

A. Yes, sir

Q. And prepared from what source?

A. Actual delivery sheet records.

Q. And do you have the underlying delivery sheet information present for inspection by interested parties?

A. Yes, sir.

Mr. Cohn: I would like to have identified in the record at this time this exhibit consisting of seven pages.

Exam. Carpenter: It may be identified as Exhibit 31.

[fol. 2038] (The document referred to was marked as "Intervenor's Exhibit No. 31, Witness Gracey," for identification.)

By Mr. Cohn:

Q. Mr. Gracey, I will ask you to refer to the exhibit which has been identified as Exhibit 31 and ask you to identify that exhibit if you will?

A. This is an exhibit of the actual delivery receipts as contained in the exhibit.

Q Each of the Pro Numbers as listed on that exhibit shows the prefix "OM."

A. Yes, sir.

Q. What is the significance of that?

A. It means billed at Omaha terminal.

Q. All of the shipments shown on that particular exhibit were billed out of the Omaha terminal?

A. Correct.

Mr. Cohn: I would like to have this document consisting of four pages identified.

Exam. Carpenter: It may be identified Exhibit 32.

(The document referred to was marked as "Intervenor's Exhibit No. 32, Witness Gracey," for identification.)

By Mr. Cohn:

Q. Now, referring to Exhibit 32, for identification, the Pro Numbers listed there are preceded by the prefix "DM."

A. Which means billed out of the Des Moines terminal.

[fol. 2039] Q. And all of the shipments thereon listed would be billed out of the Des Moines terminal?

A. Yes, sir.

Mr. Cohn: I would like to have identified in the record this document consisting of four pages.

Exam. Carpenter: It may be identified Exhibit 33.

(The document referred to was marked as "Intervenor's Exhibit No. 33, Witness Gracey," for identification.)

By Mr. Cohn:

Q. Exhibit 33 was similarly prepared—in the same manner as Exhibits 31 and 32, for identification. Is that correct?

A. Yes, sir.

Q. And all shipments shown thereon have the prefix "CH" with respect to the Pro Numbers. Will you explain that?

A. The prefix "CH" means billed out of the Chicago terminal.

Q. Were all shipments that are shown on your Exhibits 31, 32 and 33 actually transported over your line between points you are authorized to serve under your Certificate?

A. Yes, sir.

Q. Now, a number of shipments are connecting line shipments which originated from points on other lines and that were brought to you and others were given to connecting lines for points beyond your line. Is that correct?

A. That is right.

[fol. 2040] Q. Now, are the shipments shown on the Exhibits 31; 32 and 33 all of the shipments transported during the period represented by the exhibits?

A. No, sir.

Q. They are representative of the type of shipments and points served. Correct?

A. That is correct.

Q. And I notice that each of the exhibits starts with the date "9/27/51." That is the date you started the exhibit to bring it up to date for purposes of this proceeding?

A. Yes, sir.

Q. And you carried on to about the middle of April, 1952?

A. Correct.

Q. And has your company continued to conduct operations and provide service similar to that of shipments shown in the exhibits?

A. Yes, sir.

Q. Now, in connection with Exhibit 31, for identification, the Pro Number is self-explanatory. Now, will you explain each of the other columns as shown on the exhibit? Is the date the billing date?

A: It is the billing date. Under "Origin" is the town at which we originated the shipment or in case of interline, the town from which the shipment was originated.

Q. Where not originated on your line from what point was it received?

[fol. 2041] A. In Exhibit 31 it would be Omaha, Nebraska.

Q. And "Destination" is the point in the State of Iowa to which shipment was destined?

A. Correct.

Q. And "Commodity" and "Weight" are both self-explanatory?

A. Yes, sir.

Q. In connection with Exhibit 32, for identification, the explanation you made with respect to the column "Pro No." is already a matter of record.

"Date" is the date of billing?

A Right

Q. "Origin" is either point of origin on your line or origin through connecting line source?

A. Correct

Q. And where freight was transferred to your line at which point did your company receive shipments shown on Exhibit 32?

A. Des Moines, Iowa.

Q. And points of destination are points in the State of Iowa, except where otherwise indicated by reference to another State?

A. Right

Q. And the exhibit lists both shipments that were delivered in the State of Iowa to points involved in this application or in some cases shipments originated at points involved in this application and handled on your line?

A. That is correct.

[fol. 2042] Q. With reference to Exhibit 33 we also have the case of certain shipments that originated at points which are not on your line and at what points have those shipments been transferred to your line?

A. At Chicago

Q. Now, in connection with operations which your company is presently performing in territory involved in this application, is your equipment being utilized in all cases to full capacity or do you have additional——

A. In the greater majority of cases it is used to full capacity.

Q. Are there some cases where you are not operating to full capacity at the present time?

A. Very few.

Q. In event that additional equipment should be necessary to handle any increased demands for service in the territory is your company in position to add such equipment?

A. Yes, sir.

Q. And will you do so?

A. Yes, sir

Q. Have there been any occasions to your knowledge where freight was destined to or originated at any points involved in this application which you are presently serving where you have refused or otherwise neglected to pick up the shipment?

A. No, sir. Not if we could handle the shipment.

Mr. Fowler: May we have a little recess?

[fol. 2043] Exam Carpenter: Five-minute recess.

(Short recess.)

Exam. Carpenter: Proceed.

OFFERS IN EVIDENCE

Mr. Cohn: I would like to offer in evidence at this time Exhibits 27 to 33, inclusive, which have been identified.

Exam. Carpenter: Objections?

Mr. Howland: Yes. Exhibit 27 is objected to as immaterial and irrelevant. I would like to defer objections to Exhibits 28 and 29 until I have an opportunity to cross-examine the witness.

Exhibit 30 is objected to as immaterial and irrelevant and having no bearing on any issue before the Commission, being merely a list of witnesses who have testified—whose testimony has already been heard in this proceeding, and I would like to defer objections on Exhibits 31, 32 and 33 until after cross-examination, if the Examiner please.

Mr. Nolan: Let the record show I join in objections and requests made by counsel for applicant.

Exam. Carpenter: As to Exhibits 27 and 30, objections are overruled and they will be received in evidence. The receipt of the other exhibits in evidence will be deferred until after cross-examination.

(Exhibits Nos. 27 and 30, Witness Gracey, were received in evidence.)

Mr. Cohn: That completes my examination.

[fol. 2044] Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Howland:

Q. With reference to Exhibit 28 which is balance sheet or financial statement as of March 31, 1952, I notice under liabilities that you have accounts payable of $42,826.40. Are those trade accounts of various types and kinds?

A. That includes trade accounts as well as taxes accrued such as transportation tax, withholding tax, social security tax, etc.

Q. Have all items of that character, both interline accounts and tax accounts and matters of that sort, all been put in that one item?

A. All except interline accounts. They are included in accounts receivable.

Q. Included in accounts receivable?

A. Yes.

Q. Well, amounts due to connecting lines for interline, does the accounts receivable include that item?

A. That is correct.

Q. And is the item of accounts receivable balanced against interline accounts payable?

A. We have a separate account for interline account. It is either debit or credit. They may owe us or we owe them.

Q. In accounts receivable is net of receivables over payables included?

[fol. 2045] A. In interline accounts, but accounts receivables also includes general accounts.

Q. How much of accounts receivable as shown on Exhibit 28 represents accounts receivable from connecting lines?

A. That I can't tell you.

Q. You can't tell about that?

A. In percentage, no.

Q. And you can't tell us what the amount of accounts payable to interline carriers was on this date?

A. No.

Q. Now, I notice on this Exhibit 28 you have an item Drafts Payable, $29,940.29. What is represented by that?

A. That is drafts outstanding. We use draft method rather than check.

Q. In other words, you draw drafts on what type of people with whom you do business?

A. We draw everything on drafts.

Q. And call them drafts instead of checks?

A. Right. It is practically the same thing.

Q. Uh-huh, and so you had cash on hand and in the bank, $15,180.57, but you had, of course, twice that amount of checks or drafts outstanding?

A. That is correct.

Q. Do the item of accounts payable include any items on which drafts are outstanding?

[fol. 2046] A. No. Well, there is a slight possibility—no, the first answer is correct.

Q. Now, notes payable, $42,234.00, represents what?

A. Notes that are due. Notes outstanding, that is.

Q. How much of those are for money borrowed and how much for installment payments on equipment?

A. Well, it all represents notes payable on borrowed money for equipment.

Q. What I want to get at is the difference, if you can tell us, between the case in which the company has gone to the bank and borrowed money and installments of the purchase price of equipment outstanding?

A. I don't know if I understand you correctly.

Exam. Carpenter: Read the question.

(Question read.)

By Mr. Howland:

Q. In other words, I suppose that in some instances, Mr. Gracey, your company has had occasion to buy trucks,

trailers or tractors on conditional bill of sale or on the installment plan?

A. No. That particular figure in notes payable represents loans against equipment which we have purchased and paid back on the installment plan.

Q. Is that borrowing all from banks or is it from the manufacturer or vendor of equipment?

A. From banks.

[fol. 2047] Q. Now, I believe you said you owned how many pieces of equipment?

A. Eight trucks or straight jobs, 22 tractors and 23 trailers.

Q. All right. What are the size of the 8 trucks in capacity?

A. You mean in capacity load?

Q. Yes.

A. They differ. They are different size jobs. I can't state an answer sure on that.

Q. How many pick-up and delivery trucks do you have in the City of Omaha, Nebraska?

A. Two.

Q. How many pick-up and delivery trucks do you have in Des Moines?

A. One pick-up and delivery t. .k. Pardon me, there is two.

Q. Two in Des Moines.

Do you have a terminal in Chicago?

A. Yes, sir.

Q. How many pick-up and delivery trucks do you have in Chicago?

A. One.

Q. And now, that gives you five pick-up and delivery units. Do you have any pick-up and delivery at Avoca?

A. Yes. There is three in Avoca—three straight truck jobs.

Q. So you have in the City of Chicago one pick-up and delivery truck——

A. Company owned.

[fol. 2048] Q. —two in Omaha, two in Des Moines and three in Avoca?

A. Right.

Q. Now, you say you have 22 tractors and 23 semi-trailers. How many tractors do you constantly operate between Des Moines and Omaha and Omaha and Avoca and Des Moines?

A. That is varied according to the traffic. I would say an average of three—that is tractor-trailer units.

Q. You mean a tractor and trailer constitutes one unit?

A. That is right.

Q. Now, as I understand your service that you are rendering at the present time out of Omaha to the east you have a unit that operates over the highway to Avoca. Is that correct?

A. Yes.

Q. How would a shipment moving from Omaha, Nebraska, to Atlantic, Iowa, be handled by your company?

A. It would be put on the trailer which leaves Omaha each night and dropped off at Atlantic enroute to Des Moines.

Q. And about what is your scheduled time of departure for that unit?

A. That again varies. It would average between 10:00 and 12:00 p. m.

Q. Does that truck operate via Avoca or direct over Highway 6?

A. Directly over Highway 6.

Q. What other service do you have—say a shipment moving from Omaha to Harlan—what service do you provide on that?

[fol. 2049] A. Leaving Omaha in the evening and delivered to Harlan the next morning—Highway 64 to Avoca and 59 to Harlan.

Q. And there would be a transfer at Avoca on that?

A. No. It is domiciled at Avoca. All trucks on peddle are held all night there, but it would be on the same one to Harlan the next morning.

Q. Now, with respect to your service west from Des Moines in a westerly direction. What is your usual practice with respect to that?

A. Leaves Des Moines each morning and peddles west as far as Atlantic—not to Atlantic, but Wiota because

Atlantic is served by another trailer—the one I mentioned just a moment ago.

Q. A moment ago you said you had a truck leaving Omaha, Nebraska, between 10:00 p. m. and midnight—on a five-day week basis, I take it?

A. Right.

Q. And that truck goes through to Des Moines?

A. Yes.

Q. Now, what service does that render to intermediate points?

A. Atlantic only on that particular trailer.

Q. Now, what other traffic is loaded in that particular truck?

A. Traffic to Des Moines, east of Des Moines or west of Des Moines, to Anita.

Q. Do you mean points intermediate to Anita and Des Moines?

A. That is correct.

[fol. 2050] Q. All right. Now, what happens to that truck at Des Moines.

A. That truck is stripped at Des Moines and put on the respective peddle trucks.

Q. Does that truck go on east at Des Moines?

A. No.

Q. In other words, it is unloaded?

A. Right.

Q. Where does it go then?

A. It stays in Des Moines and is reloaded for Omaha to go back again that night.

Q. And what time does it leave Des Moines?

A. Approximately 5:00 to 7:00, depending on the time the trailer is loaded.

Q. Now, does that truck then peddle out of Des Moines?

A. No.

Q. And what time does that truck get back to Omaha?

A. As stated a while ago, depending on the time it leaves Des Moines and normal means of transportation between Des Moines and Omaha.

Q. What time does it get back to Omaha?

A. Between 10:00 and 12:00 p. m.

Q. 10:00 and 12:00 p. m.?

A. Right.

Q. I understood it left Des Moines sometimes between 5:00 and 7:00 a. m.?

[fol. 2051] A. No. P. M.

Q. I am all mixed up. Let's get this straight.

This truck that serves only Atlantic and has Des Moines freight from Omaha leaves from 10:00 to 12:00 p. m.?

A. From Omaha, but it originally leaves from Des Moines. That is our starting point for it.

Q. What time does it leave Des Moines?

A. Between 5:00 and 7:00.

Q. P. M.?

A. P. M.

Q. It is a turn-around between Des Moines and Omaha then?

A. That is correct.

Q. And on the eastward movement the truck comes to Des Moines, unloads and gets in here at somewhere between 5:00 and 7:00 a. m. and stays here until some time between 5:00 and 7:00 p. m.?

A. That is right.

Q. All right. Now, when was that service inaugurated on that schedule?

A. I can't give you the exact date on that.

Q. Approximately?

A. Approximately in February some time.

Q. February, 1952?

A. Yes, sir.

Q. What was your service prior to that time between Omaha and Des Moines?

[fol. 2052] A. It came to Avoca and moved to Des Moines the next morning.

Q. In other words, shipments moving Omaha to Des Moines prior to February of this year moved out of Omaha to Avoca and were there reloaded through there into a truck for Des Moines?

A. Not reloaded. The same truck would go to Des Moines peddling, I believe, on the way down. That is peddling on 6.

Q. Coming through Atlantic?

A. Right.

Q. Now, when was it that service was inaugurated to any points east of Des Moines on a peddler basis by the Iowa-Nebraska Transportation Company?

Mr. Cohn: Object to that question as having no relevancy or materiality. What we are interested in is present service being afforded in the territory.

Exam. Carpenter: Overruled.

A. To my best knowledge service was inaugurated the latter part of January, 1949.

By Mr. Howland:

Q. Do you have the trip logs of your drivers on that peddle run?

A. For 1949?

Q. 1949, 1950 and 1951?

A. I don't believe they would be on record. It is not required.

Q. How far back do you have them?

A. For one year.

Q. Don't you preserve your logs for a longer period of [fol. 2053] time normally?

A. One year is all that is required.

Q. I am asking if normally you do preserve them for a longer time?

A. Not normally. No.

Q. As I understand it you have what you refer to as a peddler run east out of Des Moines and that serves certain points located to the east of Des Moines and you have a peddle run you refer to as the north peddle run?

A. Right.

Q. Where does the north peddle run operate?

A. It leaves Des Moines and operates north to Nevada, Ames, Boone and on Highway 30 as far as Jefferson.

Q. How does it return to Des Moines?

A. Over the same route.

Q. Does it go back to Nevada?

A. Not if it makes Nevada on the way up.

Q. Now, what type unit do you have on that run?

A. Tractor and semi-trailer.

Q. What is the length of the semi?

A. From 26 to 28 feet.

Q. All right. You say you have what you refer to as the east peddler. That customarily leaves Des Moines at what time?

A. Approximately 8:00 o'clock.

Q. A. M. or p. m.?

[fol. 2054] A. A. M.

Q. And describe the movement of that peddler run as you have it set up at the present time in recent months?

A. That run would vary according to traffic demands. Normally it would start out from Des Moines and go over Highway 6 to Colfax, Mitchellville and Newton. May I see a map? Then on to Grinnell and as far as Marengo and with traffic demands it will continue on to Cedar Rapids.

Q. Then where does it go from Marengo if it is not going on to Cedar Rapids?

A. It will come back to Des Moines.

Q. Over what route?

A. Over the same route.

Q. As a turnaround service?

A. Well, as I said, when the truck originally starts it is depending on the traffic we have. There is one route the truck will take. Another time it may go directly out of Des Moines on 64 to Marshalltown and then take towns on Highway 30 to Cedar Rapids and then return to Des Moines.

Q. As I understand it then, you don't have a regularly scheduled route east of Des Moines? It may go up 64 to Marshalltown and east on Highway 30 to Cedar Rapids and back to Des Moines over U. S. Highway 6. Is that right?

A. That would be a daily service whichever way we go—if we have traffic going out on 6 and coming back on 30 or [fol. 2055] if demanded it will go out on 30 and back on Highway 6.

Q. Does that unit departing Des Moines at 8:00 a. m. daily serve both points on U. S. Highways 30 and 6?

A. Correct.

Q. Then it would not normally operate from Des Moines to Marengo and return over U. S. Highway 6?

A. Normally, no.

Q. That would be an unusual situation for that to exist?

A. Right.

Q. Now, Mr. Gracey, what is the distance between Des Moines and Cedar Rapids?

A. I don't know the exact distance. I just would judge 126 miles.

Exam. Carpenter: Over which route?

Mr. Howland: Route via Marengo and 149 or via Marshalltown and Highway 30.

By Mr. Howland:

Q. Is there much difference between the length of those routes?

A. I couldn't state definitely, but by the looks of the map there would be.

Q. And in either event the minimum distance between Des Moines and Cedar Rapids is something like 122 miles, is it not?

A. Quite close to that distance. Correct.

Q. So you would have a run of 245 miles if you made the round trip to Cedar Rapids in peddler service?

[fol. 2056] A. If we go to Cedar Rapids that is correct.

Q. If you go to Marengo and thence to Belle Plaine and back to Des Moines you would have a peddler route of something like 225 or 230 miles, would you not, in the one day?

A. It is possible. Yes, sir.

Q. When was that type of service inaugurated?

A. To the best of my knowledge sometime in January, 1949.

Q. And are you familiar with the exhibits and testimony given by Mr. Petersen in the temporary application for authority of the Rock Island Motor Transit Company in September, 1951?

A. Not too familiar.

Exam. Carpenter: Are you referring to the Rock Island's Peterson?

Mr. Howland: That is Mr. E. S. Petersen. Rock Island's is Peterson.

By Mr. Howland:

Q. Do you have any bills showing transportation of any commodities in any peddler service to points east of Des Moines prior to the month of July, 1951?

Mr. Cohn: Do you mean here in the hearing room at this time?

Mr. Howland: Anywhere.

Mr. Cohn: I am going to object to that as not being relevant to issues in this proceeding and going beyond the scope of direct examination.

Exam. Carpenter: That was July, 1951?

Mr. Howland: Yes.

[fol. 2057] Mr. Cohn: Those were in the temporary phase of the case and presented at that time. It was explained by the witnesses that these bills were for bringing it up-to-date which start with September, 1951.

Mr. Howland: I understand that.

Mr. Cohn: Of course, the exhibits in the temporary proceeding are not a part of the record in this proceeding and are not relevant in this proceeding. We are bringing in services performed by this particular carrier at this time. Anything before that would be in the temporary phase of the case and is in that case.

Mr. Howland: I am asking if the witness does have any record of any bills prior to the month of July, 1951.

Exam. Carpenter: I will sustain the objection.

By Mr. Howland:

Q. Referring now to Exhibits 31, 32 and 33, are your abstracts of shipments, as I understand it, for which you have here the supporting bills for inspection of parties for the items referred to therein?

A. Yes, sir.

Q. Now, I notice on Exhibit 32, that is the statement where the Pro Number bears the prefix "DM" which indicates as I understand that your company first got the shipment at Des Moines?

A. Right.

Q. Now, you have billed in the Des Moines shipments originating in some instances at points near Des Moines

[fol. 2058] such as Mitchellville and one or two other items of that character. Does that mean that the actual billing was handled at Des Moines?

A. The actual freight bill was cut at Des Moines. Yes.

Q. I notice on Exhibit 32 that on shipments originating at points like LaCrosse, Wisconsin, or Chicago and destined to points such as Grinnell, Newton, Colfax and Brooklyn and some other points that you apparently received the shipment at Des Moines. Is that true?

A. That is correct.

Q. In other words, on a shipment destined from Chicago, Illinois, to Grinnell, Colfax, Marengo and Victor and some other places on the list, you got that shipment at Des Moines?

A. Only shipments billed on this Exhibit 32 were billed at Des Moines and received at Des Moines.

Q. I take it they were received from connecting line at Des Moines where point of origin would be Chicago and destination would be Marengo or Victor or some place of that kind?

A. Correct.

Q. And referring to the first shipment at the top of the page on Exhibit 32, Pro No. 19965, that is a shipment of shoes from LaCrosse, Wisconsin, to Grinnell, Iowa, and you received it at Des Moines?

A. Right.

Q. Do you know what carrier handled that shipment?

A. I do from the records, yes. Watson Bros.

[fol. 2059] Q. That was the carrier from which you received it?

A. Yes.

Q. Do you know whether Watson Bros. Transportation Co., Inc. has authority to serve Grinnell, Iowa?

A. I couldn't say.

Q. The next shipment, groceries from Chicago, Illinois, to Colfax, Iowa, Pro No. 19970. Tell what carrier handled that shipment?

A. Watson Bros. to Des Moines.

Q. And you handled it back to Colfax. The dates of those shipments, September 27, 1951, that is your billing date?

A. Right.

Q. What time and place did Watson Bros. get those shipments, if you know? Do you have any information?

A. No.

Q. I observe also under Pro No. 19976 on September 27, 1951, there is a shipment from Stanley, Wisconsin, to Victor, Iowa, 70 lbs. Who handled that shipment to Des Moines?

A. Watson Bros.

Q. Let's drop down to a shipment bearing Pro No. 20013 on September 28, 1951, originating Kansas City, Missouri, destined Stuart, Iowa. From what carrier did you get that shipment at Des Moines?

A. Watson Bros.

Q. Look also at Pro No. 20020, Kansas City, Missouri, [fol. 2060] to Dexter, Iowa, storm sash, same date. What carrier did you get that from?

A. That is from Watson.

Q. Well, all of the shipments— What is the fact as to whether all of the shipments bearing point of origin of Chicago or eastern points that is received by you at Des Moines and destined to points intermediate between Des Moines and Davenport were in fact brought into Des Moines by other carriers and delivered to you at Des Moines for delivery on to destination to these small intermediate points?

A. Well, I can't say as to the reason for it. They were tendered to us. We made the towns so we accepted them.

Q. Will you look on the second page of Exhibit 32, Pro No. 20549, October 8, 1951, origin Joliet, Illinois, destination Anita, Iowa. You got that shipment at Des Moines from what carrier?

A. Watson Bros.

Q. Do you get any shipments from any carriers at Des Moines other than Watson Bros.?

A. It is possible.

Q. What are the principal ones you have in your list?

A. I couldn't tell you that unless I go through it.

Q. We will undertake to go through it if you are not familiar with it. Just one further shipment. Look at ship-

ment moved on Pro No. 23534, December 8, 1951, shipment from Peoria, Illinois, to West Liberty. Can you tell us from what carrier you got that shipment?

[fol. 2061] A. Watson.

Q. That is from Watson too.

Now, on Exhibit 31, that is shipments received by your company at Omaha, Nebraska, on which you performed transportation service, as I understand it. Is that right?

A. Yes, sir.

Q. Now that exhibit under Pro No. 51132, date of September 29, 1951, you got a shipment originated at Chicago and was destined to Oakland, Iowa, and you received it at Omaha. Is that also a Watson Bros. shipment?

A. That was received from Watson.

Q. That was a Watson shipment.

Q. That would mean, of course, that it was brought in by Watson Bros. from Chicago, carried through to Omaha and you handled it back from Omaha to Oakland, Iowa?

A. That is correct.

Q. Now, has there been any increase in the number of your units during the first three months of 1952?

A. Not of company owned equipment.

Q. Not of company owned equipment.

Does your company make annual reports to the A. T. A. with respect to equipment owned and operated in intercity revenue service?

A. To A. T. A.?

[fol. 2062] Q. Yes.

A. We are not required to.

Mr. Cohn: Do you mean to the Interstate Commerce Commission?

Mr. Howland: I mean to the Interstate Commerce Commission.

A. Yes, sir.

By Mr. Howland:

Q. And what is the fact as to whether on December 31, 1951, as of that date you reported the ownership of 17

trucks and tractors in intercity revenue service as company owned?

A. Could be. I don't know. I don't have a copy of my report.

Q. Well, would you say that your company may not have reported as of December 31, 1951, to the Interstate Commerce Commission that trucks and tractors in intercity revenue service on December 31 amounted to 17 units?

Mr. Cohn: Objection. The records speak for themselves.

Exam. Carpenter: Overruled.

A. I would not state the amount put down unless I have the record.

By Mr. Howland:

Q. Who is it makes the reports which the Iowa-Nebraska Transportation Company files with the Iowa State Commerce Commission and the Interstate Commerce Commission? Do you have charge of that?

A. I supervise it.

Q. And are those reports signed when they are filed by an officer of the company?

[fol. 2063] A. Yes, sir.

Q. Do you customarily sign those reports?

A. Quarterly reports I do; annual reports are signed by both the president and myself.

Q. Now, your company has engaged rather extensively in the transportation of dairy products, meats and packinghouse products, has it not?

A. Dairy products.

Q. And you have also been principally over the years a hauler of truckload quantities, have you not, rather than a peddle service operator?

A. We have operated both.

Q. About what percentage of your mileage or your tonnage rather, would you say in the last two years has been represented by truckload business as compared with your less than truckload business?

A. You are speaking tonnagewise now?

Q. Tonnagewise, yes.

A. I don't know the exact figure. I would estimate about 65% of these specific commodities.

Q. Is it not true that you have reported to the Interstate Commerce Commission for the years 1950 and 1949 that your tonnage in truckload quantities represented 80% or in excess of 80% of your total transportation performed?

A. I don't know the exact figure. Somewhere around there.

Q. You don't deny that your company has so represented?

[fol. 2064] A. No.

Q. Now, referring to Exhibit 29. As I understand it that is the operating statement for the period January 1, to March 31, 1952. Am I correct in that?

A. January 1?

Q. January 1, 1952, to March 31, 1952?

A. Right.

Q. What was the results of operation of your company during the year 1951?

A. In comparison with this statement?

Q. What were the results—did you show an operating profit or loss?

A. Operating profit.

Q. And how large was that figure for 1951?

A. For the first three months?

Q. No. I am speaking of the year 1951.

A. I don't remember the exact amount.

Q. Do you have anything here—information from which you can refresh your recollection?

A. Let me go back to the first here. Do you mean for the year?

Q. The calendar year of 1951. What is your company's operating profit for that year?

A. Before or after collection of income tax.

Q. Of course, if you had any income tax liability you would have a profit.

[fol. 2065] A. A slight profit.

Q. About how much?

A. I can't tell you.

Q. Can you get that figure and give it to us?

A. Yes, sir. Certainly.

Q. I don't want to ask what your income taxes are. If you can give us the figure after income taxes that will be satisfactory.

Now, in your operating statement, Exhibit 29, in which of these items do you carry your loss and damage claims?

A. In 4500 which is sales, tariff and advertising. Beg pardon. Insurance and safety.

Q. You carry loss and damage under insurance and safety?

A. Correct.

Q. Is that in accord with the Interstate Commerce Commission accounting practices?

A. It has never been denied.

Q. How much were your loss and damage claims in the first three months of 1952? Can you give us that figure?

A. I can't give it to you now. I can get it.

Q. How many claims do you have undisposed of on your books at this time? Can you tell us anything that—loss and damage claims?

A. I can't give the exact figure.

Q. Can you give us any idea about it?

A. Not without checking the records.

[fol. 2066] Q. Now, I notice you have on Exhibit 29 an item of terminal expenses of only $3453.41. What is included in that figure?

A. Terminal expenses would include salaries for manager as well as terminal employees, incidental office expenses and dock expenses.

Q. Now, as I understand it, you have an office at Omaha, Nebraska; one at Avoca; one at Des Moines and one at Chicago where you maintain terminals?

A. Right.

Q. And how many employees do you have at Omaha?

A. At the present time there is three.

Q. Three employees at Omaha, Nebraska?

A. Right.

Q. One man is the terminal agent or manager?

A. Right.

Q. And you have how many truck drivers?

A. Two.

Q. Don't you have any dockmen there?

A. No.

Q. Do your drivers load your over-the-road units?

A. Right.

Q. Then at Des Moines you have how many employees?

A. Approximately eight at the present time.

Q. Eight employees? And who does your billing at Omaha?

A. The office man.

[fol. 2067] Q. He handles all that detail?

A. Yes, sir.

Q. Now, your eight employees at Des Moines includes the terminal agent or manager. Right?

A. Right.

Q. How many pick-up and delivery drivers?

A. There would be three. They alternate between dockmen and pick-up and delivery men in the City.

Q. Do you have any office force here?

A. Just one at the present time.

Q. Just the one man. And besides your pick-up and delivery drivers and dockmen of whom there are three and the terminal manager, what is the personnel of the other four in Des Moines?

A. They alternate too. Three on peddle and one alternates between dock and peddle.

Q. And in Chicago you have how many people?

A. An average of four to five depending on traffic on the dock—one manager, one traffic manager and two terminal employees.

Q. Do you mean to say you can carry all of those people and that there is only $1000.00 a month terminal expense? Isn't something wrong with that?

A. City drivers come under transportation expense—salaries of pick-up drivers.

Q. You carry those under transportation expense?

A. Right.

[fol. 2068] Q. What is put in terminal expense?

A. Terminal managers, office managers, if any, and incidental terminal expenses.

Q. Are dockhands carried as terminal employees?

A. Yes.

Q. And your company's expenses have only been $1000.00

a month for terminal expenses for the first three months of 1952?

A. If it shows there, yes. A little better than $1000.00.

Mr. Howland: Mr. Examiner, looking at the time I don't believe I can finish in any little time.

Exam. Carpenter: We will adjourn for lunch until 1:30.

(Whereupon at 12:00 o'clock noon, a recess was taken until 1:30 of the same day.)

AFTERNOON SESSION 1:30 p. m.

Exam. Carpenter: We will proceed.

C. A. GRACEY resumed his testimony as follows:

Cross-examination (Continued).

By Mr. Howland:

Q. Your terminal expenses as shown on Exhibit 29 are listed there for a three month's period as $3453.41. Is that setup in the method prescribed by the Interstate Commerce Commission for keeping accounts for motor carriers?

A. Yes, sir.

Q. Well, now, did you not report to the Interstate Com- [fol. 2069] merce Commission for the year 1951 that you had terminal expenses of $104,208.?

A. I couldn't check that figure without seeing a copy of my report.

Q. Well, you include, do you not, in terminal expenses as you keep your records, the salaries of supervisory employees—that is your terminal agent or terminal manager and the salaries of platform employees who are handling your freight? That is included, is it not?

A. That is right.

Q. Do you know of any reason that would cause such a marked reduction in terminal expenses for the first three months of 1952 as compared with the prior year's period?

A. I can't answer that unless I check the records.

Q. Do you have that record of the 1951 report to the Interstate Commerce Commission available in Des Moines?

A. No, sir.

Q. You would have to get it from Avoca then?

A. Yes, sir.

Q. Can you do that?

A. I can if so requested.

Q. I wish you would investigate that and ascertain what your report to the Interstate Commerce Commission as to terminal expenses was for the year 1951 and then see if your figures for January 1, 1952, to March 31, 1952, are [fol. 2070] kept on the same basis and if there is any change let us know what that is. Would you be available for that purpose?

A. Yes.

Q. Will you produce for our inspection that copy of the annual 1951 report?

Mr. Cohn: Can't we stipulate that that be part of the record?

Exam. Carpenter: No, sir.

Mr. Cohn: I don't see that it is relevant and material in this proceeding—the producing. If applicant thinks it is relevant and material they should offer it. I don't want to bring this witness back and forth from Avoca for matters not relevant to matters in this proceeding.

Exam. Carpenter: The witness agreed to furnish it.

Mr. Cohn: We will send it in as a late filed exhibit. I don't think it necessary to ask this witness to come back at the whim of applicant for matters which have no bearing on this proceeding.

Exam. Carpenter: It might have an important bearing.

Mr. Cohn: I fail to see the materiality of the 1951 annual report of this carrier in this proceeding.

Exam. Your witness setup these figures. They are testing the accuracy of them. If you want to take them out——

Mr. Cohn: He says they are accurate.

Exam. Carpenter: There certainly is a vast difference be- [fol. 2071] tween the 1951 and 1952 figures.

Mr. Cohn: I don't see the 1951 figures in the record.

Mr. Howland: That is what we are asking for.

Mr. Cohn: I say they are not relevant and material. 1952 figures for three months is what we put in the record and we are willing to discuss those figures.

Exam. Carpenter: They are discussing them and asking what is the difference between those for 1951 and for 1952.

Mr. Cohn: I don't think it is material and relevant what the difference is.

Exam. Carpenter: Do you want to wait for the figures or have them late filed?

Mr. Howland: I want to cross-examine, if the Examiner please, because of what appears to me from material I have available—what appears to be a discrepancy in the figures shown on Exhibit 29 and information available to us as to the operations of the carrier.

Exam. Carpenter: We will find out what he is going to do.

You are still objecting to furnishing them, Mr. Cohn?

Mr. Cohn: That is correct.

Exam. Carpenter: I am going to overrule your objection.

Witness Gracey: May I say something?

Exam. Carpenter: Yes, sir.

Witness Gracey: Your payroll is the first item on the statement. That payroll will include supervisors and office [fol. 2072] managers of terminals. The statement is not made up according to Interstate Commerce Commission regulations. That is what it is. Payroll includes supervisory and terminal office employees.

By Mr. Howland:

Q. Well, that includes all salaries except transportation expenses—that is over-the-road drivers?

A. Correct. It includes payroll of all kinds.

Q. But not over-the-road drivers?

A. It includes all payroll.

Q. Your transportation expense shown as $124,520.55 on Exhibit 29. Isn't that the principal item—wages of drivers?

A. The transportation expense, that also includes your equipment leased to operators on a commission basis and delivery payments.

Q. Does it not include wages of over-the-road drivers?

A. No, sir. That is included in payroll. On the Interstate

Commerce Commission report there it is broken down into proper categories for terminal expenses.

Q. Well, Exhibit 29 then is not prepared in accordance with Interstate Commerce Commission accounting methods?

A. No, sir. That is not required.

Mr. Howland: That is all I have, I think. Mr. Nolan, I think, has some questions.

Exam. Carpenter: You are not asking for any information to be furnished on 1951 then? You are satisfied, are you?

Mr. Howland: If this is not in accordance with Inter-
[fol. 2073] state Commerce Commission regulations we will waive that.

By Mr. Nolan:

Q. You have been with Iowa-Nebraska Transportation Company since 1942?

A. Correct.

Q. And during that time have you been familiar with operations of the company?

A. That's right.

Q. And you are presently vice president and assistant to the president and general manager of the company?

A. Vice President and office manager is my title.

Q. And you have in your possession and under your jurisdiction the books and records of the company?

A. Right.

Q. Now, I believe you testified that the method of conducting present operations had been continuous since around the forepart of 1949. Is that correct?

A. January, 1949, on peddle runs. Yes, sir.

May I make another statement? That pertains to Des Moines peddle runs.

Q. How about other operations?

A. They have been the same since I have been with the company from Omaha.

Q. You identified in the record here Exhibit 27 which appears to be a Certificate issued by the Interstate Commerce Commission to your company, No. MC-47619. Correct?

[fol. 2074] A. I suppose that is the number. I don't have it here.

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IV

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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1956

No. ~~101~~ 6

AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL., APPELLANTS,

vs.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, ET AL.

No. ~~110~~ 8

RAILWAY LABOR EXECUTIVES' ASSOCIATION, ET AL., APPELLANTS,

vs.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, ET AL.

APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

NO. 101 FILED MAY 22, 1956
NO. 110 FILED MAY 24, 1956
PROBABLE JURISDICTION NOTED OCTOBER 8, 1956

Q. Whatever the number is you identified Certificate issued by the Interstate Commerce Commission to your company for interstate operations. Is that true?

A. True.

Q. Now you are familiar with authority possessed by your company in interstate commerce?

A. True.

Q. What is the fact whether or not operations of your company, with possible exception of Omaha-Des Moines peddle run, have been substantially the same throughout the time you have been with the company?

A. No. They have changed.

Q. Have there been any changes since October, 1951?

A. Slight changes, yes.

Q. Will you tell me what changes, if any, have taken place in the method of operating any routes your company presently have since October, 1951?

A. I don't believe I understood that.

Exam. Carpenter: Read the question.

(Question read.)

A. The only operation that is changed is the Des Moines to Omaha and return peddle.

Q. In what respect has that changed?

A. Formerly it was picked up in Omaha, put on a trailer [fol. 2075] at Omaha and brought to Avoca where it remained overnight and then carried on Route 6 between Avoca and Des Moines and return. Now it originates in Des Moines, goes directly to Omaha, with exception of one drop-off at Atlantic, and returns from Omaha to Des Moines with the same exception of one drop-off at Atlantic.

Q. That is the only change made in your company's interstate routes between Chicago and Omaha since 1951?

A. To my knowledge it is right now.

Q. You are general office manager. You would know if there were any other changes, would you not?

A. I don't recall any.

Q. I believe you testified either on direct examination or with Mr. Howland, on your operation eastbound on so-called peddle operation that that is performed by one truck one day going up to Marshalltown and Cedar Rapids and the other day on the other run?

A. Correct.

Q. And did you say that is the same as during the month of October, 1951?

A. I didn't say.

Q. Is it or isn't it?

A. I didn't say. I said it would depend on traffic at the particular time.

Q. Then your company does not operate one truck between Des Moines and Marshalltown daily?

[fol. 2076] A. Depending on traffic.

Q. That isn't my question. Do you or do you not operate between Des Moines and Marshalltown daily irrespective of the volume of traffic?

A. I still say if the traffic demands it we will operate it.

Q. Who is President, General Manager and executive officer of your company?

A. Mr. Petersen.

Q. E. S. Petersen?

A. Yes.

Q. And he was in that same capacity during October, 1951, during temporary hearing in this proceeding?

A. Yes.

Q. And he appeared as a witness in this case, did he not?

A. I think he did. I wasn't here.

OFFER IN EVIDENCE AND OBJECTION THERETO

Mr. Nolan: In connection with the cross-examination of the witness the intervenors whom I represent offer into evidence the cross-examination of E. S. Petersen, the President and General Manager of Iowa-Nebraska Transportation Company, which was given during the hearing upon the temporary authority application in this proceeding on the second day of October, 1951. Just the cross-examination of Mr. Petersen. The same appears on pages 1214 to 1286—the first half of page 1286, inclusive, and pages 1287 to 1293, inclusive, of the official transcript of the [fol. 2077] record of said proceeding.

Exam. Carpenter: Are there any objections?

Mr. Cohn: Yes. We object to any piecemeal offering of testimony of proceeding where the issues before the Commission differ materially to those before this Commission

in the instant proceeding. I am certainly going to object to any offer of any partial testimony of any witness in this proceeding as not having any bearing or materiality in this proceeding.

Mr. Howland: Applicant desires to join in the offer.

Exam. Carpenter: Sustained.

Mr. Nolan: In connection with the offer of intervenors the record shows that said witness testified that operations are the same as they were in 1951 with exception of the Des Moines-Omaha peddle run and the offer of testimony of Mr. Petersen is offered for purposes of impeachment of the Witness Gracey.

By Mr. Nolan:

Q. Now, Mr. Gracey, your company holds interstate operating authority to operate between Omaha and Cedar Rapids, does it not, by use of U. S. Highway 30 and also U. S. Highways 6 and 218?

A. Right.

Q. And your company also holds authority to serve all intermediate points on all those routes?

A. Right.

Q. And your company also has authority to serve Cedar Rapids from Omaha, Nebraska, by use of U. S. Highway 34 to Mount Pleasant and from Mount Pleasant, Iowa, by [fol. 2078] use of U. S. Highway 218. Right?

A. I believe that is right, sir.

Q. And authority to serve all intermediate points?

A. Right.

Q. Does your company serve regularly intermediate points on all three of those routes between Omaha, Nebraska, and Cedar Rapids?

A. Serve regularly?

Q Yes.

A. Yes.

Q. Do you serve all intermediate points regularly between Omaha and Cedar Rapids on the three routes I have described?

A. When traffic demands it, yes.

Q. Will you produce for me your company's freight bills

showing when the last time was that your company handled a shipment to North Liberty?

Mr. Cohn: I am going to object to any production of any additional exhibit. We are presenting our case as we feel it should be presented before the Commission. We have presented exhibit of representative shipments of this carrier and we will stand on the record as made. This witness has testified as to the type of service to points served. I object to any additional documentary evidence in this proceeding on behalf of Iowa-Nebraska Transportation Company.

Exam. Carpenter: Sustained.

[fol. 2079] Mr. Nolan: Let the record show that intervenors represented by me request that this witness produce here for examination, freight bills or delivery sheets showing the last time any shipment was handled by its company in interstate commerce to the Town of North Liberty, Iowa, which is a point on U. S. Highway 218 between Cedar Rapids and Iowa City, Iowa.

By Mr. Nolan:

Q. Will you produce, Mr. Gracey, for examination, all the freight bills or copies thereof showing shipments handled by your company to the Town of Crawfordsville, Iowa, which is a point on U. S. Highway 218 between Iowa City and Mount Pleasant, Iowa?

Mr. Cohn: Same objection.

Exam. Carpenter: Same ruling.

Mr. Nolan: Let the record show that intervenors represented by me request such freight bills for examination.

By Mr. Nolan:

Q. Now, Mr. Gracey, will you produce for examination a full and complete list of all unpaid and all unsettled loss and damage claims now pending against your company?

Mr. Cohn: I object to the production of any such documentary evidence as requested by intervenors as having no materiality or relevancy in this proceeding.

Exam. Carpenter: Objection sustained.

Mr. Nolan: The intervenors represented by me request that Mr. Gracey or some other executive officer of his company produce not later than sufficient time to examine such [fol. 2080] documents before this hearing is adjourned, a full and complete itemized list of all loss and damage claims now pending and unsettled against his company together with the dates said claims were filed and in connection with this request intervenors represented by me respectfully call the Commission's attention to testimony by various witnesses appearing here in connection with applicant's case that they had difficulty in getting collection from this carrier.

Mr. Cohn: I object to statement of counsel as not being sustained by the record. Further if there are any such specific matters in the record to which counsel for intervenors alludes those specific items may be relevant by being brought to the attention of this witness while here. It is not necessary to have any more documents or this witness appear at any later date.

Exam. Carpenter: The record speaks for itself.

By Mr. Nolan:

Q. Do you recall whether you have matters pending with Edward J. Delaney of Stuart, Iowa?

A. I don't recall him.

Q. Will you produce a full, complete and itemized list of balance due and owing your company and due and owing by your company to other carriers for interline shipments where your company has completed the shipment or have turned over shipments to other carriers?

Mr. Cohn: I object to that which has no relevancy or [fol. 2081] materiality in this case.

Exam. Carpenter: Sustained.

Mr. Nolan: Let the record show that intervenors represented by me request that this witness or some other executive of the Iowa-Nebraska Transportation Company file in this proceeding for examination by the intervenors represented by me, a full and complete and itemized list of all balances owing by his company to other motor carriers for interline shipments and a list of balances owing by such carriers to the Iowa-Nebraska Transportation Company.

By Mr. Nolan:

Q. Now, Mr. Gracey, you testified that Exhibits 31, 32 and 33 were representative shipments handled by your company during the period from September 27, 1951, to April 19, 1952, between so-called origin points Omaha, Nebraska, Des Moines, Iowa, and Chicago, Illinois, to destination points on U. S. Highway 6 involved in this proceeding. Correct?

A. Yes, sir.

Q. Will you produce not later than noon tomorrow all of the freight bills or copies of freight bills or delivery receipts showing all of the freight and shipments handled by your company from so-called origin points, Omaha, Nebraska, Des Moines, Iowa, and Chicago, Illinois, to destination points along U. S. Highway 6 involved in this proceeding for the months of April, 1952, November, 1951, and August, 1951, for examination and inspection?

[fol. 2082] Mr. Cohn: I object to that as unduly accumulative and for reason that in the presentation of our position in the case as intervenors in opposition we are allowed and entitled to a certain amount of latitude and we are standing on the record as made.

Exam. Carpenter: Sustained.

Mr. Rosenbaum: We are buying this record. Are we going to have this speach of Mr. Nolan's every time?

Exam. Carpenter: I think Mr. Nolan may go ahead.

Mr. Nolan: Let the record show that intervenors represented by me formally request that this Witness Gracey or some other representative of the Iowa-Nebraska Transportation Company produce and submit for inspection and examination, not later than noon tomorrow, a true copy of freight bills or delivery receipts of shipments handled by said Iowa-Nebraska Transportation Company from Origin points, Chicago, Illinois, Des Moines, Iowa, and Omaha, Nebraska, to destination points on U. S. Highway 6 involved in this proceeding, of which it is claimed Exhibits 31, 32 and 33 show representative shipments thereof, all said freight bills for the months of April, 1952, November, 1951, and August, 1951.

Mr. Howland: Let the record show that applicant joins in request for production of freight bills or delivery receipts.

By Mr. Nolan:

Q. Now, Mr. Gracey, your company has a manifest of each truck load that goes out from each of its terminals, [fol. 2083] does it not?

A. Yes, sir.

Q. Showing the shipper, point of origin, consignee, destination, weight of shipment. Is that true?

A. Yes, along with a few other details.

Q. What other details?

A. Pro number, number of pieces, weight, connecting line revenue, if any, and net revenue and whether shipped prepaid or collect.

Q. And those records are kept, are they not, for at least a year's time?

A. Yes, sir.

Q. And they are under your supervision as General Office Manager of the Company?

A. Yes.

Q. Will you produce for inspection and examination, not later than noon tomorrow, all of the truck manifests—not later than before this hearing adjourns, all of the manifests for shipments—truck shipments out of the Des Moines terminal for the months of April, 1952, November, 1951, and August, 1951?

Mr. Cohn: To which objection is made for reason that the production of such documents would be unduly accumulative in the record and serve no useful purpose in determination of this proceeding.

Mr. Nolan: I mean manifest of all shipments going out by truck from the Des Moines terminal.

[fol. 2084] Exam. Carpenter: Your other question was for freight bills for the same period—the question preceding that?

Mr. Nolan: That's right.

Exam. Carpenter: And now you want the manifests?

Mr. Nolan: Right.

Exam. Carpenter: Objection sustained.

Mr. Nolan: Let the record show that intervenors represented by me request the Witness Gracey or some other representative of Iowa-Nebraska Transportation Company produce for examination and inspection of intervenors represented by me, all manifests of shipments moving out of the Des Moines terminal of the Iowa-Nebraska Transportation Company for the months April, 1952, November, 1951, and August, 1951, said production being not later than on the morning of May 22, 1952—at the time this hearing reconvenes that morning.

Mr. Howland: Let the record show that applicant joins in the request.

Exam. Carpenter: The record may so show.

By Mr. Nolan:

Q. Now, Mr. Gracey, your company, I assume, keeps logs or the drivers keep logs of working hours and operations, do they not?

A. Yes, sir.

Q. And what information is shown on those logs kept by your drivers?

A. Time they start to work; time they start driving; [fol. 2085] towns they peddle to; origin points and destination points.

Q. And those logs are kept in regular course of business of your company as permanent records, are they not?

A. For a year's period, yes.

Q. And those records are under your supervision and available to you, are they not?

A. They are available to me, yes.

Q. Will you produce for examination and inspection by intervenors represented by me, the drivers' logs of your company who operated these so-called peddler operations out of Des Moines, both eastbound and westbound, during the months of April, 1952, November, 1951, and August, 1951?

Mr. Cohn: Objection is made to production of logs on the grounds they have no basis of relevancy or materiality in this proceeding.

Exam. Carpenter: Objection sustained.

Mr. Nolan: Let the record show that intervenors represented by me request that this witness or some other representative of Iowa-Nebraska Transportation Company produce for inspection and examination by intervenors represented by me, the logs of drivers of the Iowa-Nebraska Company employed in driving trucks for said company out of the Des Moines terminal of said company on so-called peddler runs, for the months of April, 1952, November, 1951, and August, 1951.

Exam. Carpenter: It may so show.

[fol. 2086] Mr. Howland: Applicant desires to join in that request just referred to by Mr. Nolan.

Exam. Carpenter: Read the statement.

(Statement read.)

Mr. Howland: Applicant desires to join in the request for production of drivers' logs.

By Mr. Nolan:

Q. Now, Mr. Gracey, how many compensation tax plates did your company obtain from the Iowa State Commerce Commission during the year 1951?

Mr. Cohn: That is objected to as not having any bearing on the issues in this proceeding, immaterial and irrelevant.

Mr. Nolan: I will withdraw that question for the time being. I want to lay a better foundation.

By Mr. Nolan:

Q. You say you have been with your company since 1942 and are familiar with the operations of the company, its authority and operating rights?

A. Yes, sir.

Q. Are you familiar with Law of the State of Iowa that requires a compensation tax plate on all motor vehicles used in the transportation of freight for compensation over regular routes?

A. I am familiar with the law, yes.

Q. And whether an operator is engaged in intrastate

or interstate commerce, you are familiar with that requirement of the Iowa Law?

A. Yes, sir.

[fol. 2087] Q. How many compensation tax plates did your company procure from the Iowa State Commerce Commission during the year 1951?

Mr. Cohn: I object to that as having no bearing on issues in this case.

Exam. Carpenter: Objection overruled.

A. I don't know.

By Mr. Nolan:

Q. How many compensation plates did your company procure from the Iowa State Commerce Commission for the year 1952?

Mr. Cohn: Same objection.

Exam. Carpenter: Overruled.

By Mr. Nolan:

Q. How many compensation tax plates does your company now have from the Iowa State Commerce Commission?

A. That I don't know.

Q. Will you produce for examination and inspection your records showing the amount your company paid for Iowa compensation tax plates during the years 1950, 1951 and thus far in 1952?

Mr. Cohn: I object to the production of any records as a part of our case.

Exam. Carpenter: Objection sustained.

Mr. Nolan: Let the record show that intervenors represented by me request that this witness or some other executive of the Iowa-Nebraska Transportation Company produce the records of said company showing the amount said company paid the Iowa State Commerce Commission for compensation tax plates under the Motor Carrier Law of [fol. 2088] the State of Iowa for the years 1950, 1951 and thus far in 1952.

Mr. Howland: We would like to join in that request, if the Examiner please.

By Mr. Nolan:

Q. Now, Mr. Gracey, there seems to be some dispute as to how many trucks your company actually owned and operated during the year 1951 and will you produce the registration certificates of all trucks licensed by your company during the year 1951 for examination by intervenors represented by me?

Mr. Cohn: I would like to make observation that the witness during the noon recess ascertained the true situation regarding vehicles owned and can give that without bringing in any additional documentary evidence. Is that right?

Witness Gracey: Right.

Mr. Nolan: We have a right to go beyond what the witness wants to give us. I have asked a question.

Exam. Carpenter: Read the question.

(Question read.)

Mr. Cohn: We object to production of the registration statements—certificates, as a part of our case.

Exam. Carpenter: Objection sustained.

Go ahead and ask the witness regarding that matter.

Mr. Nolan: Let the record show that intervenors represented by me request that this witness or some other repre-
[fol. 2089] sentative of the Iowa-Nebraska Transportation Company produce for inspection the registration certificates of all trucks licensed by said company for the year 1951.

By Mr. Nolan:

Q. Now, Mr. Gracey, how many trucks and what kind were they that your company operated during the year 1951?

A. How many trucks and what kind were they?

Q. Yes.

A. We operated 22 tractors.

Q. 22 tractors?

A. Right.

Q. Where were those licensed?

A. In the State of Iowa.

Q. In what county?

A. Pottawattamie county.

Q. And what other motor vehicles did your company own?

A. Straight trucks and trailers.

Q. All right. How many trailers?

A. 23.

Q. And how many straight trucks?

A. 8.

Q. How many trucks does your company own today?

A. It is the same amount.

Q. Now, was your operation of pick-up trucks the same in October, 1951, as they are today?

A. Do you mean as to the number of trucks?

[fol. 2090] Q. The number and kind, yes.

A. Not exactly the same.

Q. What changes have there been?

A. One truck added to Omaha. There have been some changes in Des Moines, but I don't know what they are.

Q. How do you account for the fact that you reported only 17 tractors to the Interstate Commerce Commission at the end of 1951?

A. Due to the fact we have five tractors in the company name that are, however, leased to operators that are purchasing them.

Q. They have been sold to operators?

A. Yes.

Q. And sold on a conditional sales contract?

A. Yes.

Q. Whose name are they licensed in?

A. Iowa-Nebraska Transportation Company.

Q. Who carries the insurance on them?

A. Iowa-Nebraska Transportation Company.

Q. Name those so-called owner operators?

Mr. Cohn: I object to that as not material to this case.

Exam. Carpenter: Overruled.

A. Ralph Bessey, Council Bluffs; Gordon Elkins, Council Bluffs; Lyle Smyth, Avoca; Bruno Tincani, Omaha; and Raymond Williams, Avoca.

By Mr. Nolan:

Q. Now, are those owner operators engaged by your [fol. 2091] company in the transportation of merchandise?

A. Yes, sir.

Q. As a matter of fact those five trucks or tractors are used exclusively for the handling of dairy products, are they not?

A. Not exclusively, no, sir.

Q. What other commodity do they handle?

A. They handle dairy products east, but general commodities on the backhaul.

Q. They handle exclusively dairy products going east?

A. In most cases, yes.

Q. They are not engaged in over-the-road transportation of freight except for the westbound movement out of Chicago?

A. And westbound movement out of New York to Chicago.

Q. But not used in local operation in the State of Iowa, are they?

A. Not out of Des Moines or Omaha, but they are out of Chicago.

Q. So then you have 17 tractors which are owned and operated by your company?

A. Right.

Q. Excluding these five trucks sold to so-called owner-operators and which are engaged, so far as this area is concerned, exclusively engaged in the handling of dairy products from the Omaha area to Chicago and east?

A. On the east run, yes.

Q. Now, your company is engaged in the transportation [fol. 2092] of dairy products from a territory approximately of one hundred miles radius around Omaha, Nebraska. Is that true?

A. Yes, sir.

Q. And that includes butter, eggs and dressed poultry for eastern markets in Philadelphia and New York?

A. Philadelphia, New York and Boston.

Q. And that is a regular operation?

A. Yes, sir.

Q. And your company uses its trucks in the handling of some of that merchandise? You have some of your company owned trucks handling dairy products to eastern markets. True?

A. Yes, sir.

Q. How many of your trucks are exclusively engaged in handling dairy products from origin territory in Nebraska to eastern markets?

A. Are you referring to tractors only?

Q. I am referring to tractors and trailers.

A. Of company owned I don't know the exact amount. I would say nine.

Q. You would say that nine tractors and trailers are devoted almost exclusively to the handling of dairy products from the Omaha territory to eastern markets?

A. That would be my opinion, yes, sir.

Q. Now, the trailers which are used in the handling of dairy products are trailers equipped for perishable com- [fol. 2093] modities, are they not?

A. Yes, sir.

Q. They are refrigerated equipment?

A. Right.

Q. So then out of the 17 tractors which you have left after you sold these five, nine of those tractors are engaged practically exclusively in the handling of dairy products from western Iowa to eastern market and, therefore, you have eight tractors left for over-the-road operations between Chicago and Omaha. Is that true?

A. Not between Chicago and Omaha. The nine going east goes—they all go to Chicago and bring freight back.

Q. How about going from Omaha to Chicago eastbound?

A. All dairy products.

Q. No general freight?

A. That would be handled mostly by vans.

Q. What do you mean by vans?

A. We have some van trailers.

Q. You only have eight left. You sold five of them and use nine of them to handle butter, eggs and dressed poultry.

A. From Omaha to Chicago it is mostly dairy products.

Q. You told the Examiner that you are performing a daily scheduled regular operation from Omaha to Chicago

and from Chicago to Omaha handling freight. What equipment handles freight you carry from Omaha to Chicago?
[fol. 2094] A. We don't handle much from Omaha to Chicago.

Q. Do you handle any?

A. Some.

Q. When was the last time you handled f. t from Omaha to Chicago?

A. I can't tell without checking the records.

Q. Will you check your records and give us an itemized statement of all shipments handled between Omaha and Chicago by your company in the last thirty days' time?

Mr. Cohn: I object to that as not having any materiality.

Exam. Carpenter: Sustained.

Mr. Nolan: Let the record show that intervenors represented by me request that this witness or some other representative of the Iowa-Nebraska Transportation Company produce for inspection a record of all shipments handled by said company between Omaha and Chicago during the last thirty days' time.

By Mr. Nolan:

Q. Now, these trucks which you said you operate on a trip-lease basis, those are trucks either handling truck loads of dairy products originating in western Iowa for eastern markets or for merchandise coming out of Chicago. Is that correct?

A. Or merchandise out of New York, yes.

Q. And those are so-called angels that go to New York with dairy products and bring back a load of something else?

Mr. Cohn: I object to the characterization and think he [fol. 2095] should be more specific.

Exam. Carpenter: Overruled.

By Mr. Nolan:

Q. You do not use these trip-lease operators in the handling of local freight?

A. Not ordinarily, no.

Q. It is only when you have a load either from the dairy product territory going east or from New York or Chicago coming west in truckload quantities that you get this trip-lease equipment?

A. You mean——

Q. I am saying that the only time you use this trip-lease equipment is when you have eggs, butter or some dairy product from the origin territory from western Iowa or eastern Nebraska destined to the eastern seaboard, New York, Boston or Philadelphia, or have a load coming out of New York or Chicago destined to some point in Iowa. Is that true?

A. We use it on backhauls.

Q. That is the only time you use this trip-lease equipment when you have a load of dairy products from the west end of your territory or a load from the east coast coming back.

A. They could be used for returns either from New York, Boston or Chicago.

Q. You do not use this trip-lease equipment on any local so-called merchandise operation. Is that true?

A. On peddle runs?

Q. Yes.

[fol. 2096] A. No, sir.

Q. Now, did you say that you engage nine of your own trucks exclusively in the handling of these dairy products which we have been talking about and do you occasionally use others of your own trucks for handling such merchandise?

A. Not very often, sir.

Q. With what frequency would you say you do?

A. It would be very slight and then only on refrigerated equipment.

Q. How many refrigerated trucks does your company have?

A. I believe it is 20. I think 3 vans.

Q. Then 20 of the 23 trailers owned by your company are refrigerated equipment for the handling of perishable products, especially dairy products?

A. True.

Q. At least 65% of your company's tonnage is truckload tonnage and are you familiar with the records of your company for the past several years that 80% of your tonnage is truckload?

Mr. Cohn: I object. It is repetitious. It is all in the record.

Exam. Carpenter: It is, as I recall, Mr. Nolan.

By Mr. Nolan:

Q. Does your company keep a record of the truckloads of dairy products which it dispatches from origin territory weekly?

A. Not weekly, no, sir.

[fol. 2097] Q. Monthly?

A. Daily.

Q. Daily.

Are those records under your supervision?

A. They are available to me.

Q. And do those records show whether or not those shipments of dairy products are handled by your company owned trucks or by the trucks which you have claimed to have sold to these owner-operators or trip-lease operators?

A. Yes, the records will show that.

Q. And will you produce for examination by me and the intervenors represented by me the daily records of your company showing the shipment of dairy products and all truckload quantities of merchandise originating in territory in which your company has authority to handle such products, showing whether such truckload shipments were handled by your company on company owned trucks or by so-called owner operator trucks or by trip-lease operators for the months of April, 1952, November, 1951, and August, 1951?

Mr. Cohn: Before I object to the request I would like to have the record clarified as to what intervenors Mr. Nolan is speaking for.

Mr. Nolan: The record shows that. I can restate it.

Exam. Carpenter: Restate it for benefit of Mr. Cohn.

Mr. Nolan: I appear as intervenor on behalf of the Em-

[fol. 2098] ployees' Association of the Rock Island Motor Transit Company and specified shippers shown by my original appearance.

Mr. Cohn: I am going to object to production of records specified by Mr. Nolan in behalf of intervenors he represents as a part of our case on the ground they are not relevant or material in this case.

Mr. Howland: Let the record show that applicant joins in this request made by Mr. Nolan.

Mr. Nolan: In behalf of my request, if your Honor please, we have now developed that of the 22 tractors which are owned and operated by this company, that five of those are owned by so-called owner-operators who use them exclusively in the handling of truckload shipments of dairy products from origin territory in Iowa and Nebraska to eastern points such as New York, Boston and Philadelphia and we have further developed that nine of the remaining 17 company owned tractors are used exclusively in rendering service on dairy products from origin territory in Iowa, which this company has authority to operate, to eastern destination points, thus leaving eight which may or may not be available for the operation of this regular motor carrier service which they claim they are operating daily and we feel we are entitled to know whether or not any more of these eight trucks are being used exclusively in a service not connected with the instant application and not available for rendering this service they claim they are rendering daily. That [fol. 2099] is the purpose of this request. We have felt all along that when we get down into the nub of this thing we are going to show that this objector has not been giving service and is not capable of giving the service. Certainly this is germane and important.

Mr. Cohn: You have a right to prove your case in any way you desire, but we are presenting our case in the manner we see fit. The witness is here under oath to answer the questions.

Mr. Nolan: Further in connection with these requests, we are not required to take an unsupported statement of this witness or any witness even though under oath

if there is documentary evidence to contradict these statements. These requests will either support his testimony or contradict it and impeach him. The cross-examination of any witness is to determine the truth of his testimony; whether he is wilfully telling a wrong story; whether he is not fully informed; or his memory is not good. We submit that wherever there is documentary proof supporting or disproving the testimony of a witness it should be made available to test the veracity of the testimony. The mere fact that this witness is under oath—if there is documentary evidence that will prove or disprove the veracity of testimony we are requesting the production of it. There are only eight trucks left, part of which may be used for the handling of dairy products—half or two-thirds of them—which goes to the very ability of this company to perform the service they say they are performing. [fol. 2100] Mr. Cohn: We certainly have a right to present our portion of the case in a manner we deem to be in the best interests of our clients. We have developed facts we think are relevant and I think it is poor taste to impugn the veracity of this witness.

Mr. Nolan: I am not questioning the veracity of this witness. I am merely trying to determine whether he is telling the truth or maybe mistaken or does not recall the facts or deliberately lying. I am not saying he is doing any of those things.

By Exam. Carpenter:

Q. Are you familiar with how these other eight trucks are used at the present time?

A. Yes, sir.

Exam. Carpenter: Objection sustained.

Find out how they are being used.

By Mr. Nolan:

Q. Of the 23 trailers your company has you say 20 are refrigerated?

A. That is my statement.

Q. That is your best recollection?

A. Yes, sir.

Q. Do you have documentary records to support that?
A. Yes, sir.
Q. You don't have any hesitation to getting documentary proof?

Mr. Cohn: I am going to object to this witness producing any documents on behalf of this intervenor not presented in the orderly presentation made of our case.
[fol. 2101] Exam. Carpenter: There has been a ruling before sustaining your objection, but not sustaining everything that might come up.

By Mr. Nolan:

Q. Isn't it fair to say that what you are testifying to is from your best recollection?
A. Correct.
Q. You are giving us the best of your recollection?
A. Yes.
Q. You may be mistaken as you were about the ownership of your trucks where you had to review your records. True?
A. Yes.
Q. And in regard to all of these things you have testified to you may be mistaken and in order to determine whether accurate or inaccurate you have to go to your records?
A. Not all statements.
Q. Well, you might to most of them?
A. I wouldn't say that either.
Q. Do you say to the best of your recollection that there are 20 refrigerated trailers?
A. Right.
Q. All equipped to handle perishable products?

Mr. Cohn: Objection. It is merely repetitious.
Exam. Carpenter: It is repetitious.

By Mr. Nolan:

Q. Now, all the tractors your company owns are equipped to handle these refrigerated trailers, are they not?
A. Yes.
[fol. 2102] Q. You testified you didn't know how many

compensation plates your company had on this equipment at the present time?

A. Correct.

Q. Would you say that none of these eight remaining tractors or trailers have ever been used within the last thirty days for handling truckloads of dairy products from origin territory in western Iowa where your company has authority to operate to the eastern seaboard?

A. Other than the nine—the remaining eight are what you refer to?

Q. Yes.

A. They have not gone to the east coast.

Q. Have they gone to any points outside the State of Iowa with truckload quantities of dairy products?

A. No, sir.

Q. Of packinghouse products?

A. No, sir.

Q. With truckload quantities of any kind or character of merchandise or freight?

A. They have moved from Omaha into the State of Iowa with truckloads of dry freight and sometimes less truckloads.

Q. Have any of these eight remaining trucks been engaged by your company in handling truckload quantities of merchandise, irrespective of the character of merchandise, for points other than points on the record on routes [fol. 2103] involved in this application during the past thirty days?

A. To my knowledge I don't recall any instances. It could be.

Q. Now, these five trucks which you claim your company sold to these truck owner-operators, they have been specified by make and number and motor number and serial number, have they?

A. We have that information. Yes, sir.

Q. They were set-up on the sales contract when sold?

A. We have that information.

Q. Now, these nine trucks which you say have been used in handling dairy products in truckload quantities, are they special so far as make, license number, etc. or are they nine trucks taken out of the pool?

A. I don't get what you mean.

Mr. Nolan: I don't think it was too clear.

Exam. Carpenter: Read the question.

(Question read.)

Mr. Nolan: I will withdraw that.

By Mr. Nolan:

Q. We got down to the point where you say you have nine trucks dedicated for the use of transporting dairy products in truckload quantities from the eastern part of Nebraska and western Iowa to the east coast. Are those nine specific trucks or are they nine trucks pulled out of the truck pool of the company?

A. No, they are used specifically for those runs going east. However, they are used for dry freight coming back. [fol. 2104] Q. I appreciate that.

Tell us what kind they are?

A. Either White or International.

Q. And they are carried by license number, serial number, etc. on your books?

A. Right.

Q. And do you have special drivers to drive those so-called long distance trucks?

A. Yes. They sometimes change.

Q. So getting back to the eight trucks which are left, you told us this morning, I believe, that your company uses five trucks in regular operation between Omaha and Des Moines. Is that correct?

A. Including the two pick-up trucks in Omaha.

Q. No, as I understood your testimony your company used five trucks on peddler operations between Des Moines and Omaha.

Mr. Cohn: I believe the witness should be able to state what the fact is with respect to those five trucks.

Witness Gracey: He is asking two questions.

By Mr. Nolan:

Q. Including Avoca.

Exam. Carpenter: Are you including everything between Omaha and Des Moines?

Mr. Nolan: Right.

A. The answer is correct. Five units, but also two pick-up units in Omaha, but not the pick-up units in Des Moines.

[fol. 2105] By Mr. Nolan:

Q. I understand your testimony now to be that there are three over-the-road trucks used between Des Moines and Omaha and intermediate——

A. No. Only one trailer unit between Des Moines and Omaha.

By Exam. Carpenter:

Q. What about the truck around Avoca?

A. I included that and in the Town of Omaha which makes five.

Exam. Carpenter: I am lost.

Mr. Fowler: I am not lost. It is perfectly plain.

By Mr. Nolan:

Q. Mr. Gracey, will you describe again for us your company's operations between Des Moines and Omaha including all points served including Avoca and Harlan?

A. That is restricted between Des Moines and Omaha?

Q. No. Everything from Des Moines west.

A. We operate five units, one of which is operated between Des Moines and Omaha.

Q. One truck between Des Moines and Omaha. Where is the origin point?

A. Des Moines is the origin point.

Q. When does that leave Des Moines?

A. Between 5:00 and 7:00 o'clock.

Q. A.M. or P.M.?

A. P.M.

Q. Does that go direct to Omaha?

A. With one exception—a stop-off at Atlantic if freight demands it.

[fol. 2106] Q. What time does that truck get to Omaha?

A. It varies. Between 10:00 to approximately 12:00 p.m.

Q. All right. What is your next operation?

That is a tractor-trailer unit?

A. Yes, sir.

That man when he arrives in Omaha drops the trailer from Des Moines, picks up a trailer and comes back to Des Moines with the same stop at Atlantic.

Q. That is one tractor and two trailers. Right?

A. Yes, sir.

Q. By the way, on these five trucks you sold to these dairy product operators, does that also include your trailers?

A. We have some trailers on there. Some have their own.

Q. How many of these five owner-operators have their own trailers?

A. To the best of my knowledge right now only one is pulling our trailers.

Q. What is the fact?

A. I don't know the fact.

Q. Would your records show?

A. Yes, sir.

Q. Will you produce your records on that subject?

Mr. Cohn: To which we object as a part of our case.

Exam. Carpenter: Sustained.

By. Mr. Nolan:

Q. All right, now, we have one tractor and two trailers [fol. 2107] on the operation between Des Moines and Omaha. Correct?

A. Yes, sir.

Q. Now what other operations do you have from Omaha into Iowa territory?

A. There is two units, one straight job and one tractor-trailer unit.

Q. That is Omaha to where?

A. Avoca, Harlan, Oakland, Harlan and points on Highway 64 between Council Bluffs and Avoca.

Q. That is one tractor-trailer and one straight job. Right?

A. Right.

Q. And they serve from Omaha to Avoca to Harlan and to where from Harlan?

A. I mentioned the towns served. The towns mentioned are Oakland, Harlan, Walnut and the towns on Highway 64 between Council Bluffs and Avoca.

Q. So then that serves everything north of Highway 6. Correct?

A. Everything north?

Q. Yes.

A. No.

Q. Well, you said it serves Avoca and Harlan.

A. The towns are not all north of Highway 6. Wait a minute. I am confused.

Exam. Carpenter: We will take a short recess.

(Short recess.)

[fol. 2108] Exam. Carpenter: We will proceed, gentlemen.

By Mr. Nolan:

Q. As I understand it your answer is that your company engages one tractor-trailer unit and one straight truck from Omaha to Avoca and Harlan?

A. That is right—out of Omaha.

Q. On a daily operation.

Do you have any other operation out of Omaha into Iowa territory?

A. On dairy products and that wouldn't be into Iowa, but to the east coast.

Q. That is included in the other group.

Do you have any other truck operation between Omaha and Des Moines other than the Omaha-Des Moines turnaround?

A. No, sir.

Q. How do you serve such points as Hamlin and Guthrie Center on Highway 64?

A. Guthrie Center is handled out of Des Moines westbound.

Q. Now, will you tell us about that operation out of Des Moines westbound?

A. The freight destined out of Omaha to any point on Highway 6 west of Atlantic and including Atlantic to Des Moines or any point on Highway 64 west of Des Moines to Guthrie Center is put on the Omaha peddle truck and carried to Des Moines where it is then taken off the trailer and put on the peddle truck. That should be east of Omaha on Highway 6.

[fol. 2109] Q. Any freight originating Omaha destined to points intermediate between Omaha and Des Moines and points beyond Des Moines would be put on the turnaround truck, Des Moines to Omaha?

A. And goes only to Des Moines.

Q. And you have another tractor-trailer unit that peddles out of Des Moines westbound?

A. Yes, sir.

Q. What territory does that peddle?

A. It covers Highway 6 to Anita and Highway 64 to Guthrie Center.

Q. And Highway 64 to Guthrie Center?

A. Yes, sir.

Q. How do you serve Hamlin?

A. That is taken off the peddle truck that runs from Avoca to as far as Glidden on Highway 30 and return.

Q. You have a peddle truck there. That is a tractor-trailer unit?

A. In some cases it is.

Q. Ordinarily the tractor-trailer unit out of Des Moines is for peddle to all points on U. S. Highway 6 as far west as Anita?

A. Yes, sir.

Q. And is that a daily operation?

A. Yes, sir.

Q. Where does it go when it gets to Anita?

A. Depending on how the traffic warrants. It may go out 64 to Guthrie Center and drop down to Anita.

[fol. 2110] Q. How does that truck get from Guthrie Center to Anita? What would be the route it travels?

A. There are two alternates—either 25 Highway or 71.

Q. How does your company handle freight to the Town of Wiota? That is between Anita and Atlantic.

A. If there is freight for Wiota it is handled off the Des Moines peddle truck.

Q. How?

A. Out of Des Moines.

Q. You mean the truck that leaves Des Moines and goes to Anita?

A. Goes west to Anita and is sometimes handled on the Avoca peddle truck.

Q. Is that a scheduled operation?

A. Yes, sir.

Q. Either out of Avoca or out of Des Moines?

A. Yes, sir.

Q. Assuming we have a shipment in Chicago destined to Wiota and leaving Chicago today. How would that shipment be delivered to Wiota?

A. It would arrive in Des Moines tomorrow morning, taken off and put on the westbound unit.

Q. You said that ordinarily that truck only goes to Anita.

A. Right. However, if traffic warrants we will go to Wiota.

Q. How do you serve points west of Atlantic between Atlantic and Council Bluffs?

[fol. 2111] A. That is peddled out of Avoca.

Q. By what unit?

A. Well, it varies. Sometimes on the unit that comes out of Omaha and sometimes on a straight job kept in Avoca.

Q. Now, you testified this morning that you had a regular scheduled operation from Des Moines to Nevada and west on Highway 30 to Denison.

A. To Jefferson.

Q. That is a daily operation?

A. Yes, sir.

Q. And is that a tractor-trailer unit?

A. In most cases it is although there is a straight job available.

Q. Where?

A. In Des Moines.

Q. Is that your pick-up truck in Des Moines?

A. We may use a tractor-trailer.

Q. But you have a tractor-trailer unit on the Des Moines-Jefferson operation?

A. We have one available.

Q. And you have an operation Des Moines to Marshalltown?

A. Yes, sir.

Q. And that is a tractor-trailer operation?

A. There again if traffic warrants a tractor-trailer unit. [fol. 2112] Q. And you have another operation Des Moines to Marengo?

A. No. We have that operation, but the same truck handles both.

Q. Are you familiar with the testimony Mr. E. S. Petersen gave at the time of the hearing on the temporary application?

A. No, sir, I am not.

Q. If he testified that your company operates a truck Des Moines to Marshalltown and Des Moines to Marengo and Belle Plaine daily, would you say he was mistaken?

A. I wouldn't say.

Q. How do you serve points east of Marengo on U. S. Highway 6?

A. That is taken care of on the Chicago truck.

Q. Chicago to where?

A. The Chicago truck usually ends up at Des Moines or Omaha.

Q. And is that a tractor-trailer operation?

A. That would be, yes, sir.

Q. Assuming that your truck got empty at West Liberty, Iowa, what would you do then? Deadhead on into Avoca?

A. That doesn't happen very often. I wouldn't want to state what would happen unless the circumstance arose.

Q. Are you familiar with testimony of Mr. Petersen in regard to what he said your operations were from Omaha to Cedar Rapids and Chicago to Cedar Rapids?

A. No, sir.

Q. If he said you had daily operations there would you disagree with him?

[fol. 2113] A. I couldn't answer unless I knew what he said.

Q. How do you say your company serves Cedar Rapids from both the west and east?

A. It would be handled out of Chicago direct to Cedar Rapids and there is a possibility of less truckload traffic being taken off at Cedar Rapids on the way to Chicago.

Q. Then you have trucks operating between Des Moines and Chicago?

A. Right.

Q. How many scheduled operations are there?

A. No set schedule.

Q. How many did you have last week operating between Des Moines and Chicago?

A. I don't know.

Q. Do you ever have over three trucks operating between Des Moines and Chicago at any one time?

A. That I can't answer. It is depending on traffic.

Q. Now, you testified that your company operates, if traffic demands, or regularly as a matter of fact, on U. S. Highway 34 between Council Bluffs and Mount Pleasant and then on U. S. Highway 218 to Cedar Rapids. How frequently would you say that operation is?

A. I don't believe I made any statements as to U. S. Highway 34.

Q. I believe you did.

A. I testified we had the rights.

[fol. 2114] Q. Does your company operate at all on U. S. Highway 34?

A. Yes, we do, but I can't tell you specific instances.

Q. What is your best judgment as to the frequency of operations of your company on U. S. Highway 34?

Mr. Cohn: I object to that question. U. S. Highway 34 is not involved in this application.

Exam. Carpenter: Overruled.

A. I can't answer the question.

By Mr. Nolan:

Q. You say your company has engaged as many as three trucks daily between Chicago and Des Moines and Des Moines and Chicago?

A. I didn't say that.

Mr. Cohn: I don't believe the witness made such statement.

By Mr. Nolan:

Q. Has your company ever operated over one truck daily between Des Moines and Chicago?

A. Yes, sir.

Q. Has your company ever operated two trucks daily between Des Moines and Chicago?

A. I would have to check the records.

Q. Would it be fair to say that your company averages two trucks daily between Des Moines and Chicago and Chicago and Des Moines?

A. Roundtrip?

Q. Yes.

A. Either originating out of Chicago——

Q. Originating out of Des Moines to Chicago and coming back?

[fol. 2115] A. I would have to check the records before I could answer.

Mr. Cohn: I believe the witness has answered and I am going to object to this as repetitious.

Exam. Carpenter: Sustained.

By Mr. Nolan:

Q. Do your records show how many trucks your company operates daily between Des Moines and Chicago and return?

A. Our records would show that. Yes.

Q. During the past thirty days' time?

A. Yes, it would show that.

Q. Now, your company operates on U. S. Highway 30, does it not—has rights to operate on U. S. Highway 30 between Chicago and Omaha?

A. Yes, sir.

Q. With what frequency is that operation conducted on U. S. Highway 30?

A. There again I would have to check the records to determine the number.

Q. Would that be a daily operation of one tractor-trailer unit?

A. I couldn't answer without checking the records.

Q. Would your records so show?

A. Yes.

Q. For purposes of approximation would you say that one tractor-trailer unit of your company is engaged there on a daily basis?

A. I wouldn't want to answer without seeing the actual records.

[fol. 2116] Q. Now, the trucks between Des Moines and Chicago are all tractor-trailer over-the-road units?

A. Yes, sir.

Q. And the same is true on U. S. Highway 30 between Chicago and Omaha?

A. Yes, sir.

Q. And whatever operation there is on U. S. Highway 34 would be by tractor-trailer units?

A. Yes, sir.

Q. Did I understand you to say that your company has some operations into Sioux City?

A. Yes, sir.

Q. Is that a scheduled operation?

A. Not regularly scheduled.

Q. Would it be a regular route operation?

A. Yes, sir.

Q. Handling general commodities?

A. Yes, sir.

Q. What route does your company operate on to Sioux City?

A. To Sioux City?

Q. Yes.

A. I can't answer that question, Mr. Nolan.

Q. What did you say?

A. I can't answer that question.

Q. You say you don't know what route you operate on there?

[fol. 2117] A. Not positively. It would be in the Certificate.

Q. Are you able to give us the frequency of that operation?

A. No, not positively.

Q. Do you advertise and hold yourself out to the public to perform a regularly scheduled service to Sioux City?

A. We advertise that we perform a service to Sioux City. We will accept freight destined Sioux City.

Q. Now, your company holds authority to operate between Iowa City and Cedar Rapids, Iowa. Is that a scheduled operation on a daily basis?

A. Between Iowa City and Cedar Rapids?

Q. Yes.

A. On interstate traffic?

Q. Yes.

A. Only out of Chicago.

Q. And if you had a substantial sized shipment or truckload of merchandise from Chicago to Cedar Rapids or vice versa, how would that be handled?

A. From Chicago to Cedar Rapids?

Q. Yes, and return if there are return operations.

A. That depends on how the tractor-trailer unit would be—we dispatch it directly to Cedar Rapids and return would be depending on the particular traffic and which terminal would need the tractor worse.

Q. Your company holds itself out to the public—adver-

[fol. 2118] tises daily freight service between Des Moines and Omaha and return—right?—and you engage one tractor and two trailers in that operation?

A. Des Moines to Omaha and return.

Q. And you advertise and hold yourself out to the public as performing a daily service between Omaha, Avoca and Harlan and points in that area and that requires one truck and trailer daily. Right?

A. Right.

Q. Your company holds itself out to the public to perform a service westbound between Des Moines—local serv-

ice as far west as Anita on a daily basis and that requires one tractor-trailer unit to handle it. Right?

A. That unit also handles Highway 64.

Q. And it gets over to Highway 64?

A. Yes, sir.

Q. Is that a daily operation on Highway 64?

A. Yes, sir.

Q. And you hold yourself out to the public to perform an operation between Des Moines via Nevada to Jefferson, Iowa, on a daily basis and that operation takes one tractor-trailer unit to handle it. Right?

A. Sometimes it does and sometimes it is a straight truck.

Q. But if you do have a tractor-trailer unit available you use it or if not there is another method and you use it?

[fol. 2119] A. Depending on traffic.

Q. And you have an operation between Chicago and Des Moines and hold yourself out to the public to handle all merchandise tendered your company on a daily basis?

A. Yes, sir.

Q. And that takes at least one and sometimes more tractor and trailer to handle?

A. Which in all cases are leased.

Q. When did you decide they are leased—just now?

A. No, it is a fact.

Q. You lease trucks Des Moines to Chicago?

A. On dry freight.

Q. What do you mean by that?

A. General commodities.

Q. When was the last time your company leased a truck to handle dry freight Des Moines to Chicago?

A. I could check the records and tell you.

Q. Would your records show that?

A. Yes.

Q. When was the last time your company transported on its own equipment freight Des Moines to Chicago?

A. I could check the records and tell you.

Q. Would your records so show?

A. Yes, sir.

Q. Will you show us those records?

[fol. 2120] Mr. Cohn: Same objection.

Exam. Carpenter: Sustained.

By Mr. Nolan:

Q. Your company not only has authority but will perform a general service on U. S. Highway 34 between Council Bluffs and Mount Pleasant and north on Highway 218 to U. S. Highway 6 and into Chicago. Is that right?

A. I believe it states that in the permit. Yes, sir.

Q. And I believe you testified your company does perform that service?

A. I don't believe I testified to that fact. No.

Q. Well, if your company did it would take one tractor-trailer unit to do that, would it not?

A. If they did perform it.

Q. You testified your company has authority and holds itself out to serve the public in general commodities between Chicago and Omaha by the use of U. S. Highway 30 direct, did you not?

A. Between what town and Omaha?

Q. Chicago and Omaha over U. S. Highway 30?

A. Right.

Q. Do you perform that service?

A. Out of Chicago, yes, sir.

Q. And from Omaha in the reverse direction?

A. As far as Glidden.

Q. Do you have another truck out of Omaha that goes to Glidden and returns?

[fol. 2121] A. That has already been mentioned.

Q. No, I didn't hear that. I don't believe you mentioned that before.

A. I did.

Q. What other points does that Glidden truck serve?

A. It is loaded on at Avoca and goes on 64 serving Denison, Vail, Westside, Carroll and Glidden.

Q. Is that a tractor-trailer unit?

A. No, a straight job.

Q. Do you ever use a tractor-trailer there?

A. It might be.

Q. Have you ever loaded a tractor out of Omaha for Denison, Vail, Westside, Carroll and Glidden?

A. Yes, sir.

Q. If you have a truck load coming out of Omaha for those points? How is that handled?

A. Loaded at Omaha and taken directly to those points.

Q. Your company holds itself out to the public and has authority to serve Sioux City on a scheduled daily basis?

A. Right.

Q. And does it serve or purport to serve that?

A. If traffic demands it, yes.

Q. And you hold yourself out to the public and purport to render all that service which we have gone into now on eight tractor-trailer units?

[fol. 2122] A. Not necessarily eight. A lot of that out of Chicago is on over-the-road trucks on backhauls from New York and Chicago.

Q. Will you tell me how you get a backhaul from Sioux City out of Chicago to points east?

A. No, I say backhauls from dairy products.

Q. I am talking about all this authority. You say your company renders a daily scheduled operation direct by these eight tractor-trailer units if traffic demands.

Mr. Cohn: He didn't say that and the record will so show.

Mr. Fowler: I move to strike the answer of counsel.

Exam. Carpenter: Overruled.

Mr. Nolan: At this time I request that a subpoena duces tecum be issued by the Examiner directed to Mr. C. A. Gracey, Vice President, Iowa-Nebraska Transportation Company, Inc., to bring with him and produce into this hearing on or before 9:30 a.m. on May 22, 1952, the following records and documents of the Iowa-Nebraska Transportation Company, Inc.:

1. The full and complete statement of balances between Iowa-Nebraska Transportation Company and all other motor carriers with which said Iowa-Nebraska Transportation Company has interlined motor freight traffic during the past two years' time.

2. The full and complete itemized statement of all the records of Iowa-Nebraska Transportation Company showing the unpaid and unsettled loss and damage claims of shippers and receivers of freight now pending with Iowa-Nebraska Transportation Company.

[fol. 2123] 3. The manifest records of the Iowa-Nebraska Transportation Company showing the outbound shipments handled by said company from Des Moines, Iowa, during the months of April, 1952, November, 1951 and August, 1951.

4. The log records of said company of drivers operating trucks out of the Des Moines terminal of said company for the months April, 1952, November, 1951, and August, 1951.

5. All freight bills and delivery receipts of the Iowa-Nebraska Transportation Company for the period of time from September 27, 1951, to April 19, 1952, the freight originating and handled by said company at Omaha, Nebraska, Des Moines, Iowa, and Chicago, Illinois, destined to points involved in this proceedings. In other words, all the freight bills of which Exhibits Nos. 31, 32 and 33 are purported to be representative shipments thereof.

6. The records of said company showing the make, motor number and license number of trucks owned and operated by said company during the months April, 1952, November, 1951 and August, 1951, and further records of said company of use said trucks were used in during said period of time.

7. The records of said company showing the amount paid by it to the State of Iowa for Iowa compensation taxes required by the provisions of Laws of the State of Iowa for regular route motor carriers for the years 1950, 1951 and thus far to date in 1952.

Mr. Howland: Applicant will join in the request for [fol. 2124] issuance of subpoena for production of these records specified in Mr. Nolan's request.

Mr. Cohn: We previously objected on behalf of Iowa-Nebraska Transportation Company, Inc., intervenor in opposition to the application, to the production of each and every one of the general classifications of documents for which subpoena duces tecum is requested by intervenors and supported by the applicant for reason that none of the documents for which subpoena duces tecum is requested is relevant to this proceeding and further none of the documents of such nature must be introduced as part of

the case of intervenor in opposition as presented in this proceeding and object to the subpoena duces tecum being issued.

Exam. Carpenter: Could the documents be introduced by Mr. Nolan and specified——

Mr. Cohn: It would be impossible to comply with the request for documents within the time specified by Mr. Nolan and in which Mr. Howland joined.

Exam. Carpenter: How long would it take to produce them?

Off the record.

(Discussion off the record.)

Mr. Cohn: It would involve an inordinate amount of expenses to intervenor we represent and as not relevant would serve no useful purpose in the issues in this proceeding and we strenuously resist the presentation of any of the documents requested.

[fol. 2125] (Discussion off the record.)

Exam. Carpenter: I will deny the subpoena.

Mr. Nolan: The record shows what the request was, does it not?

Exam. Carpenter: Yes, it does.

By Mr. Nolan:

Q. Now, Mr. Gracey, do your company's records show the breakdown of revenue from truckload shipments as distinct from less truckload shipments?

A. Yes, sir.

Q. Do your company's records show revenue derived from interline shipments as distinct from origin and destination shipments of your company?

A. As far as our revenue is concerned?

Q. Yes.

A. No, sir.

Q. How do you report to the Interstate Commerce Commission that part of your company's revenue was from truckload as distinct from interline shipments?

A. It is broken down at the end of the year.

Q. Is that an approximation or based on actual records?

A. Actual records. I took your first question as to quarterly breakdown. It is just once a year.

Q. Do your records show the revenue that your company receives from the operation of so-called peddler run from Des Moines to Anita, Iowa?

[fol. 2126] A. We could break it down, but we don't.

Q. Can you break it down?

A. We could. We never made a practice of it.

Q. Do you keep any cost records on that operation?

A. Yes, sir.

Q. Do you know what it costs your company to operate per mile in over-the-road operation in peddler service?

A. No, sir.

Q. Have you any idea?

A. We have our own idea. Yes.

Q. What is your idea?

A. Our long-hauls make up for loss sustained on peddler operation.

Q. You are sustaining a loss on peddler operation and have been for some time?

A. That is my opinion. I don't have records to prove it.

Q. Would you be able to furnish us with records showing revenue from your peddler operations between Des Moines and Anita, Iowa, for the last thirty days' time?

A. I could with research work sure.

Q. Do you also have the same information for peddler operation between Des Moines and Marengo, Iowa?

A. Originating at any particular point?

Q. Your truck originating Des Moines and destined Marengo or Belle Plaine?

[fol. 2127] A. We have that record on freight bills. I could break it down by pulling the freight bills.

Q. Could you prepare an exhibit on revenue between Des Moines and Marengo for the past thirty days' time?

Mr. Cohn: Are you asking if it could be prepared in the form of a late filed exhibit or otherwise? If for purposes of this witness to testify in this case I am going to object.

Mr. Nolan: I certainly am not going to ask any witness to prepare such statement for a late filed exhibit without having the right of cross-examination.

Mr. Cohn: We are going to object to the production of records or preparation of further exhibits in connection with the matter of costs referred to.

Exam. Carpenter: Sustained.

By Mr. Nolan:

Q. Mr. Gracey, does your company have a record showing the revenue from these various peddler operations which you described on a monthly or annual basis?

A. Broken down by peddler runs?

Q. Yes.

A. No, sir.

Q. Do you have costs of operation on either an annual or monthly basis?

A. No, sir.

Q. It is your judgment that you are losing money on peddler runs. Right?

[fol. 2128] A. I said it was my opinion. Yes.

Q. But you don't know how much?

A. No.

Mr. Nolan: That is all at this time.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Cohn:

Q. Mr. Gracey, on cross-examination by Mr. Howland, you were requested to advise if possible as to whether or not your company under 1950 operations showed an operating profit after income tax.

A. 1950?

Q. 1951, excuse me.

A. It showed a profit before income tax.

Q. Could you show the amount of profit?

A. $126.00.

Q. That was based upon a volume of revenue of what amount gross? How much gross business did your company do?

A. Over a million dollars gross revenue.

Q. Now is that a figure before or after income tax?

A. Before.

Q. And did your company pay income tax for the year 1951?

A. Yes, sir.

Q. And after payment of income tax your company showed a loss?

A. Right.

Q. What was the operating ratio of your company after [fol. 2129] income tax? Excuse me. Let me say before income tax.

A. $99.69 before income tax.

Q. You made reference to the fact that your company owns and operates 20 refrigerated tractors. That is correct, is it?

A. That is correct so far as I can determine now.

Q. Does the fact that this equipment is refrigerated mean it can be used only for the transportation of freight requiring certain protection in transit?

A. No, sir. It can also be used for dry freight.

Q. In other words, the refrigerated truck is only one that is insulated. Is that correct?

A. Correct.

Q. And you do transport all types of general commodities in these refrigerated trailers?

A. Yes, sir.

Q. Now, in your Exhibit 31 for identification you indicate the shipments which are received by your company at Omaha, Nebraska, both in interline and through service. Is that correct?

A. Yes, sir.

Q. Where shipments are shown as originating Omaha, Nebraska, with destination as a point which you are authorized to serve, is it a fact that that entire shipment was transported over your line?

A. Yes, sir.

Q. Is it also true on your Exhibit 33 indicating ship- [fol. 2130] ments originating at Chicago on your line?

A. Yes, sir.

Q. Where the origin of shipment is Chicago and destination is a point you are authorized to serve the entire transportation service is performed over your line?

A. Yes, sir.

Q. Is that also true as to Exhibit 32 as to shipments originating your line at Des Moines?

A. Yes, sir, consigned to points on our line.

Q. They moved wholly on your own line?

A. Yes, sir.

Q. Now, these various services which you testified your company is performing and which Exhibits 31, 32 and 33 are representative of, are services which you are presently performing today. Is that right?

A. Yes, sir.

Mr. Howland: I object to counsel leading and suggesting.

Exam. Carpenter: Overruled.

Mr. Cohn: That is all.

Exam. Carpenter: Recross-examination.

Recross-examination.

Mr. Howland: One question which is really further cross-examination, if the Examiner please.

By Mr. Howland:

Q. The report to the Interstate Commerce Commission—in that report there is an item under Employees and Com-[fol. 2131] pensation, Item 206, Officers, Owners and Partners, two individuals, of course, that are not named. Do you mind——

A. What schedule is that.

Q. Account 206, Administration and General Expenses, under classification of Employees and compensation, it shows there was a certain amount of money paid to two officers.

A. Right.

Q. And those two individuals are Mr. Petersen and yourself?

A. Right.

Exam. Carpenter: Is that from annual report for 1951 to the Interstate Commerce Commission?

Mr. Howland: That is correct.

By Mr. Howland:

Q. And I take it then that you and Mr. Petersen are the principal stockholders of Iowa-Nebraska Transportation Company?

A. No. There is one other. He is inactive in the company and does not draw compensation.

Q. Yourself and Mr. E. S. Petersen are actively in management?

A. We are the only ones that draw compensation.

Mr. Nolan: Further in connection with the testimony of this witness I would like to know the units available for operating various routes and will the Commission take judicial notice of the mileage of the various routes or will I prove it by this witness?

Exam. Carpenter: No, we wont take judicial notice of it. [fol. 2132] Mr. Cohn: The witness testified he didn't know as to the mileages you requested before. I think the map will show it.

Mr. Nolan: We wont waive that item but will offer other proof on it.

Exam. Carpenter: Are you all through with this witness?

By Exam. Carpenter:

Q. Does Exhibit 27 include all the interstate authority you have?

A. I believe it does. All authority involved in this hearing.

Q. It doesn't include the authority you talked about to Sioux City.

You testified you were losing money on peddle runs. That was your opinion?

A. Yes, sir.

Q. Will you continue to operate peddle runs if you lose money on them?

A. It is based on traffic. If we receive sufficient traffic to warrant our operation we will so continue and give service.

Q. Are you giving more peddle service now than you did prior to August, 1951?

A. Yes, sir.

Exam. Carpenter: Is there anything further?

Mr. Cohn: Off the record.

(Discussion off the record.)

Mr. Cohn: Now, the operations testified to in connection with service at Sioux City are contained in Exhibit 27 [fol. 2133] under the regular route description shown on the first page of the Certificate which is identified as Exhibit 27 under general commodity classification under route between Chicago and Omaha and more specifically the first paragraph of that Certificate.

By Exam. Carpenter:

Q. Under routes involved under this exhibit you hold no authority except interstate?

A. Interstate only.

By Mr. Nolan:

Q. In respect to question by the Examiner you said you were giving more service now than in 1951. As a matter of fact you have less company owned equipment now than you had then. Isn't that right?

A. I wouldn't state it that way.

Q. Well, you sold five of these tractors, did you not?

A. Those tractors are in the name of Iowa-Nebraska Transportation Company. However, they are sold and operated by leased operators.

Q. When were they sold?

A. I don't know the exact dates.

Q. You don't have any more operating authority now than you had in 1951?

A. No.

Q. You don't have any more equipment?

A. I wouldn't want to answer that question until I could find out for sure.

Q. How do you know you are giving more service if you [fol. 2134] don't know if you have more equipment or anything else? You don't know, as a matter of fact, that you give more service than you did in August, 1951.

A. In my opinion we are giving better service.

Q. Giving better or more?

A. Both.

Q. Do you have more money in the bank than you had in August, 1951?

A. I wouldn't be able to state that either.

Mr. Nolan: That's all.

Exam. Carpenter: Excused.

(Witness excused.)

OFFERS IN EVIDENCE AND OBJECTIONS THERETO

Mr. Cohn: I would like to offer Exhibits 28, 29, 31, 32 and 33.

Mr. Howland: Exhibits 28 and 29 are objected to only on the ground that it affirmatively appears that these exhibits have not been prepared or set-up in accordance with Interstate Commerce Commission accounting practices and it is therefore impossible to determine by comparison with the Interstate Commerce Commission reports the pertinence of matters set forth.

Now, with respect to Exhibits 31, 32 and 33 we desire to object to them because the denial of request made by the Examiner has not enabled us to fully cross-examine with respect thereto and we have no further objections to those three exhibits. In other words, the objection we [fol. 2135] have is really an objection to denial of our request for production of further records and the issuance of subpoenas.

Exam. Carpenter: Objections overruled. Exhibits 28, 29, 30, 31, 32 and 33, for identification, are received in evidence.

(Intervenor's Exhibits Nos. 28, 29, 30, 31, 32 and 33, Witness Gracey, were received in evidence.)

Mr. Nolan: Let the record show that I join in the same objection as Mr. Howland and for further reason they are not properly identified and full and complete cross-examination has not been had because of denial of production of records and subpoena of the records in connection with them.

Exam. Carpenter: Proceed.
Mr. Fowler: Mr. Harlan.

E. W. HARLAN was sworn and testified as follows:

Direct examination.

By Mr. Fowler:

Q. Will you announce your name, please?
A. E. W. Harlan.
Q. Your address?
A. 1009 58th Street, Des Moines.
Q. The organization with which you are connected?
A. Bruce Motor Freight, Inc.
Q. Where is Bruce Motor Freight, Inc. located?
A. In Des Moines at 2011 Easton.
Q. What is your capacity?
[fol. 2136] A. President and General Manager.
Q. As such are you in charge of active management of the business of the company?
A. Yes, sir.
Q. And how long have you been so engaged?
A. Approximately 8½ years.
Q. Now, generally speaking what is the scope of operation of Bruce Motor Freight, Inc. in so far as it is limited to the territory immediately involved under the present application?
A. We have a north and south operation and the towns involved would be Pella and Oskaloosa.
Q. In connection with the immediate application you are authorized and do actually serve Pella and Oskaloosa, Iowa?
A. Yes, sir.
Q. Do you have an operation serving St. Louis?
A. Yes, sir.
Q. Kansas City?
A. Yes, sir.
Q. Des Moines, Iowa?
A. Yes, sir.

Q. What is generally described as the Twin Cities?

A. Right.

Q. In connection with service to the Town of Pella, Iowa, how do you presently serve Pella?

A. We peddle off the road truck on route between Des [fol. 2137] Moines and St. Louis. That is to an agent at Pella.

Q. In other words, you have a commission agent at Pella?

A. Yes, sir.

Q. And freight destined to consignees at Pella is delivered to the agent from your truck?

A. Yes, sir.

Q. What is it at Oskaloosa?

A. Same thing.

Q. Do you have a commission agent at Oskaloosa?

A. Yes, sir.

Q. And that service is performed on highway truck, I presume, between St. Louis and Des Moines?

A. Yes, sir.

Q. In both directions?

A. Right.

Q. Now, appearing here as a witness in this proceeding was a representative of the Rolscreen Company, Paul Farber. What is the fact whether or not you perform a service from the Rolscreen Company on wood products and how is it handled?

A. Our agent is used in Pella. We have worked out an agreement together where he brings it to Des Moines to our dock and we load it on our trucks going outbound from Des Moines.

Q. In other words, rather than to interrupt your over-the-road trucks at Pella you made an arrangement with the Rolscreen Company and your agent at Pella to bring it to Des Moines?

[fol. 2138] A. Right.

Q. What is your opinion as to whether that is an improvement over the other method?

A. It is an improvement. We can guarantee a load out on over the road the day it is brought in. Also some pieces at Pella we were not able to get in the truck because the truck was partially loaded when it got to Pella.

Q. With respect to Oskaloosa there appeared here as witnesses representatives of Ideal Manufacturing Company and Iowa Valve Company. Are you acquainted with those companies?

A. Yes, sir.

Q. Do you perform services for them?

A. Yes, sir.

Q. Have you ever had a request to serve those two organizations that you have not complied with?

A. Not to my knowledge.

Q. Now with respect to other operations. Kansas City. Do you have tendered to you at Kansas City, on occasion, shipments destined to points located on U. S. Highway 6 either east or west of Des Moines?

A. Yes, sir.

Q. At what point do you transfer those to delivery carrier?

A. Des Moines.

Q. And what has been your experience as to your ability to interline freight at Des Moines with other carriers?

[fol. 2139] A. No problems.

Q. With what carriers do you interline?

A. Des Moines Transportation Company, Iowa-Nebraska Transportation Company, Roberts Transfer, Rock Island Motor Transit.

Q. Within the last six months has any complaint come to your attention with respect to service available for that type of shipment?

A. No, sir.

Q. Do you have any trouble getting rid of your interline at Des Moines, east or west, originating at Kansas City?

A. No.

Q. Take the operation from St. Louis. Do you have tendered to you at St. Louis, on occasion, shipments destined to the same points on U. S. Highway 6?

A. Yes, sir.

Q. Is the transfer point there Des Moines?

A. Yes, sir.

Q. What has been your experience with respect to interline with other carriers?

A. No problem.

Q. And is the same true in respect to your operation from Kansas City?

A. Yes, sir.

Q. With respect to your operation from the Twin Cities, do you have tendered to you, on occasion, shipments destined [fol. 2140] to the same points on U. S. Highway 6?

A. Yes, sir.

Q. What is the point of interchange?

A. Des Moines.

Q. What experience have you had with respect to your ability to interline that traffic with other carriers?

A. No problem.

Q. Have you had complaints with respect to service you have been able to afford on those shipments?

A. Not to my knowledge.

Q. Now you conduct an overhead service on general commodities from Kansas City to Des Moines?

A. Yes, sir.

Q. Des Moines to the Twin Cities?

A. Yes, sir.

Q. What is the situation with respect to balancing your movement at Kansas City?

A. Kansas City is pretty well balanced.

Q. What is the situation with respect to balancing your movement at the Twin Cities?

A. About 25% light southbound.

Q. Do you mean coming out of the Twin Cities?

A. Running 25% light out of the Twin Cities southbound.

Q. Do you know of your own knowledge within the last month you have had reason to return units from the Twin Cities to other points empty?

[fol. 2141] A. Yes, sir. Two weeks ago Monday and today. Two weeks ago last night we returned three empty to Des Moines and two weeks ago tonight one out empty.

Q. What is the situation with respect to balancing the movement in connection with St. Louis?

A. About 60-40. I mean 40% light into St. Louis.

Q. Do you find it necessary to run units to St. Louis empty or substantially so in order to have them available for outbound traffic?

A. Yes, sir.

Q. What is your competition between the Twin Cities and Des Moines and Kansas City by rail aside from the Rock Island Railroad and the Rock Island Motor Transit Company?

A. By rail?

Q. What is your railroad competition?

A. I can't give all of that.

Q. Are you familiar with railroad competition from Kansas City to Des Moines other than the Rock Island?

A. No other service.

Q. With respect to St. Louis to Des Moines, what is the railroad competition?

A. Wabash, but I don't know the service they give.

Q. You do know that there are railroads serving all of those points and between those points other than the Rock [fol. 2142] Island Railroad and the Rock Island Motor Transit Company?

A. Right.

Q. What is your motor carrier competition between the Twin Cities and Des Moines?

A. There are eight common carriers.

Q. Name them, please.

A. Our line, Bos Freight, Rock Island Motor Transit, Brady Transfer & Storage Company, Des Moines Transportation Company, Merchants and Watson Bros.

Q. Do you know of your own personal knowledge that they are actively and actually engaged in the operation in that area?

A. Yes, sir.

Q. What is your competition between Des Moines and Kansas City?

A. Merchants, Bos Freight, Brady Transfer & Storage, Knaus Truck Lines and Watson Bros.

By Mr. Howland:

Q. How about Burlington Transportation?

A. Yes, Burlington Transportation Company. Well, no.

By Mr. Nolan:

Q. Worden?

A. We don't consider them competitors.

By Mr. Fowler:

Q. You don't consider Burlington Transportation Company a competitor?

A. Not between Des Moines and Kansas City because they do not operate direct.

Q. And you don't consider Worden competition?

A. No.

[fol. 2143] Q. Do you know of your own personal knowledge whether those carriers are actively engaged at the present time in motor carrier service?

A. Yes, sir.

Q. With respect to St. Louis and Des Moines, what is your competition?

A. Merchants, Watson Bros., Brady Transfer & Storage, Gateway Transfer and again Burlington Truck does have authority from Des Moines to St. Louis, but it is via Quincy or Galesburg and we do not consider them competitors.

Q. Is Rock Island Motor Transit regarded as competitive with you between Des Moines and St. Louis?

A. Not at the present time.

Q. Are they between Des Moines and Kansas City?

A. Yes, sir.

Q. And competitive between Des Moines and the Twin Cities?

A. Yes, sir.

Q. For the record will you give us the Interstate Commerce Commission identification of your Certificate of Public Convenience and Necessity?

A. MC-52310.

Q. In addition to the operations just described do you perform a local service on interstate traffic out of Des Moines to Centerville, Iowa?

A. Yes, sir.

[fol. 2144] Q. And in addition to Des Moines and Centerville what points are served?

A. Do you mean out of Des Moines?

Q. Yes.

A. Indianola, Van Wert, Weldon, Leon, Humeston, Corydon, Promise City, Perry——

Q. Do you also have a local operation to Perry?

A. That's right, Perry and Madrid and Woodward.

Q. What is the Crooks Terminal Warehouse at Kansas City?

A. I am not too familiar with the Crooks Terminal Warehouse. They do general merchandise, I understand.

Q. Did you ever have any demand from them for service?

A. Not to my knowledge.

Q. Did you ever have any call that you did not perform?

A. No.

Q. Are you familiar with the Montgomery Ward installation at Kansas City?

A. Yes, sir.

Q. What is the fact whether or not you are now performing a service for them?

A. We are.

Q. Do you recall any incidents within a seasonable period wherein they complained about your service?

A. No.

Q. Are you acquainted with Mr. B. J. Kilmer of the [fol. 2145] Sinclair Oil Company?

A. No.

Q. Did you ever have a call from him that you have not performed?

A. Not to my knowledge.

Q. Are you familiar with Janney Semple Hill Company at Minneapolis?

A. Yes, sir.

Q. Are you performing service for them now?

A. Yes, sir.

Q. Have you had demands for service that you have not been able to perform from them?

A. Not to my knowledge.

Q. Do you know Mr. Lindberg of Minneapolis, Minnesota?

A. No. I know his company.

Q. What is the company?

A. Is it Minnesota Builders?

Q. Frankly I don't know.

A. I thought you meant Minnesota Builders. I don't know the gentleman anyway.

Q. Are you familiar with Brown Camp Hardware of Des Moines?

A. Yes, sir.

Q. Do you perform transportation service for them?

A. Yes, sir.

Q. From, to and between either St. Louis, Kansas City and the Twin Cities?

[fol. 2146] A. Wherever they have anything moved by our line.

Q. Are you familiar with Des Moines Drug Company?

A. Yes, sir.

Q. And do you perform transportation service for them?

A. Yes, sir.

Q. To and from the same points?

A. Yes, sir.

Q. Luthe Hardware?

A. Yes, sir.

Q. Have you ever had any call made to you from the Overalls Manufacturing Company in Des Moines?

A. Yes, sir.

Q. Have you ever at any time had any complaint from these shippers or any of them with respect to service you have given them either to Kansas City, St. Louis or the Twin Cities?

A. I remember no complaint.

Q. Now, you are also authorized to serve the City of Mason City, are you not?

A. Yes, sir.

Q. And at the present time on shipments tendered you how is that handled?

A. We bring it to Des Moines from St. Louis and Kansas City and turn it over to Des Moines Transportation Company.

Q. Does Des Moines Transportation Company conduct a service in interstate as well as intrastate commerce from Des Moines to Mason City?

[fol. 2147] A. Yes, sir.

Q. So with respect to shipments from Kansas City or St. Louis you interline with Des Moines Transportation Company and they handle it on local service to Mason City?

A. Right.

Q. Did you ever have any demand for service as regards Mason City that you refused to perform?

A. No, sir.

Q. Are you familiar, Mr. Harlan, in a general way with the application which is presently under review here?

A. Yes, sir.

Q. If it should appear that by reason of the grant of authority sought in this application that the Rock Island Motor Transit Company could conduct an all out motor carrier service between Kansas City, Des Moines and the Twin Cities, without any restrictions whatsoever, as well as to conduct an all out auxiliary and supplemental service to its train service, what effect do you think it would have on Bruce Motor Freight?

Mr. Howland: Now, I am going to object to that as accumulative in form, immaterial and irrelevant, calling for an opinion and conclusion of the witness on an immaterial issue and relating to a territory not directly involved in this application.

Exam. Carpenter: Objection overruled.

[fol. 2148] A. I think it would have a very serious effect on our company if such a situation existed because of so many advantages they could have over us by having a difference in rates. If their trucks were in the Twin Cities—say they have three there—and they have to get back to Des Moines with no freight they could go to the rail and get freight for them. They would have a very distinct advantage over our truck operation. In my opinion it would be a brand-new truck line starting up in business between the Twin Cities and Kansas City.

Mr. Howland: I move to strike the answer for reasons urged in my objection and for additional reason it is an argumentative reason of the witness.

Exam. Carpenter: It is the witness' opinion. Objection overruled.

By Mr. Fowler:

Q. At the present time the Rock Island Motor Transit Company holds authority to operate motor vehicles as auxiliary or supplemental to rail service or to their train service?

A. Yes, sir.

Q. Between Kansas City and Des Moines and between Des Moines and Minneapolis, but because of keypoint restrictions in their Certificate they cannot conduct an all-out rail-truck service between the Twin Cities and Kansas City?

Mr. Howland: You don't mean that, Mr. Fowler.

Mr. Fowler: Can you?

[fol. 2149] Mr. Howland: Sure.

Mr. Fowler: As I understand it the keypoint restriction at Des Moines does not prevent the handling of traffic on rail freight by truck from the Twin Cities to Kansas City.

Mr. Howland: That is correct, if we desire to do it. I don't think we are doing it.

Exam. Carpenter: That is because you can only move freight through one keypoint.

Mr. Howland: It is handled Omaha, Davenport or Chicago.

By Mr. Fowler:

Q. Well, Mr. Harlan, assuming that the authority of Rock Island Railroad remains as it now is, namely merely the authority to use motor vehicles for auxiliary and supplemental service to train service, would you regard that as seriously competitive in your opinion?

Mr. Nolan: Just a minute. In what respect?

Mr. Howland: I object for reasons urged in previous objection and further it is invading the province of the Commission.

Mr. Fowler: Let me withdraw the question.

By Mr. Fowler:

Q. Will you state your opinion, if you have one and care to express it, as to whether or not an operation by Rock Island Motor Transit Company which is limited strictly to auxiliary and supplemental train service would be competitive with Bruce Motor Freight?

Mr. Nolan: That is objected to as wholly irrelevant and immaterial to any issue in this case, particularly as to any [fol. 2150] operation of Rock Island Motor Transit Company between Des Moines and the Twin Cities or Des Moines and Kansas City, or in reverse order, because the company has no such restrictions in its operations and for further reason that these operations have been conducted for many years without such restrictions. The question is wholly immaterial and calls for a wholly immaterial answer. It seeks to go into a question and issue not involved in this proceeding.

Mr. Howland: I join in the objection that it is immaterial to any issue.

(Discussion off the record.)

Exam. Carpenter: Read the question.

(Question read.)

Mr. Fowler: That is the question.

Mr. Howland: We will stand on the objection.

Exam. Carpenter: I will sustain the objection then.

Mr. Fowler: You may examine.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Howland:

Q. Mr. Harlan, about how long is it you have been connected with Bruce Motor Freight?

A. 8½ years about.

Q. And that was an operation that was started by a man by the name of Bruce, I believe, wasn't it?

A. Yes, sir.

[fol. 2151] Q. And do you know about what the total number of ton miles of freight handled by Bruce Motor Freight was at the time you became connected with it?

A. No, sir.

Q. Is it not true that your business has grown very substantially in the last 8½ years?

A. I assure you it has. All businesses have.

Q. And about how many times over would you say the gross business—gross volume of business you are handling now is compared with the gross volume of business you were handling when you became connected with Bruce Motor Freight?

A. I wouldn't want to say. I don't know offhand. I don't know what it was when I took it over. There have been a lot of changes in everything.

Q. It has substantially increased?

A. It has grown.

Q. Of course, you don't have any operations on U. S. Highway 6 except to go across it?

A. Right.

Q. And you don't render any service to any point on U. S. Highway 6 between Silvis and Omaha except at Des Moines?

A. That is right, except by interline at Des Moines. We serve points on Highway 6 by interline carriers.

Q. You don't render any direct service?

A. No.

[fol. 2152] Q. You say carriers with which you interline at Des Moines for points on U. S. Highway 6. In recent years those have been what lines?

A. Des Moines Transportation Company, Iowa-Nebraska Transportation Company and Rock Island Motor Transit and Roberts Transfer.

Q. And what points located on U. S. Highway 6 does Des Moines Transportation Company have authority to serve?

A. The ones I am familiar with are Newton and Iowa City. That is where we interline freight.

Q. Has there been any change in your practice with respect to interline with Rock Island Motor Transit or other carriers in the last eight or ten months?

A. No material change. We have had routing come in showing Des Moines Transportation or Iowa-Nebraska Transportation and some still show Rock Island Motor Transit.

Q. You know that Des Moines Transportation Company

serves only a relatively few points on Highway 6, do you not?

A. I wouldn't say.

Q. They serve Iowa City, Davenport and Newton?

A. Yes, sir.

Q. Are you familiar with any other points they serve?

A. I am not sure of Grinnell.

Q. How about intermediate points?

A. Like——

Q. Ladora, Marengo——

[fol. 2153] A. I am not familiar with us having any shipments for those towns.

Q. Oxford, Tiffin, Stuart?

A. We have some shipments for Stuart. Offhand I can't tell you who we gave them to.

Q. Is it a fact that you have concentrated in your operation of Bruce Motor Freight in service to larger centers of population?

A. Not necessarily. We serve those points, but there is not much demand for our service because they get most of their merchandise from Des Moines. Salesmen call on them from Des Moines.

Q. You concentrate on places like Des Moines, Ottumwa, St. Louis, Kansas City, Des Moines, Mason City and the Twin Cities. Is that not true?

A. That is the main part of our business, but we still take care of shippers in small towns. If we have freight moving to small towns we certainly take care of it the same as if it was going to Des Moines.

Q. You have authority to serve Mason City as I understand it?

A. Right..

Q. And on business from St. Louis destined Mason City you are delivering it to Des Moines Transportation Company?

A. Most of it.

Q. You are not performing that yourself?

A. We are if we have enough so we can deliver it off the over-the-road trailer—five thousand pounds.

[fol. 2154] Q. If you get a shipment of five hundred

pounds you turn it over to Des Moines Transportation Company?

A. Right.

Q. Do you have any authority to serve the intermediate points between Des Moines and Mason City?

A. Yes, sir.

Q. Over what route do you operate?

A. 69 and 65.

Q. Do you have authority on both routes?

A. Yes, sir.

Q. And over which route do you customarily send your trucks?

A. 69.

Q. And do you have any regular service you perform on U. S. Highway 65—regularly scheduled service?

A. We have.

Q. I mean daily or five days a week service?

A. No.

Q. Your service goes north out of Des Moines to Ames, thence up through Jewell and up to Blairsburg and up to Garner and to Mason City?

A. From Garner up 69 and into Mason City.

Q. On Mason City could you use Highway 65?

A. Right.

Q. You don't have any authority on U. S. Highway 218 between Grinnell and Mason City?

[fol. 2155] A. No.

Q. Well, you serve Pella, as I understand it, and always have off your over-the-road units from St. Louis?

A. Right.

Q. What is your usual service between St. Louis and Des Moines? What service do you perform there?

A. Overnight daily.

Q. How many trucks do you customarily operate?

A. Five.

Q. Out of St. Louis to Des Moines?

A. That is on regular schedule.

Q. And if you have additional business you put on additional trucks.

A. Right.

Q. How many trucks do you have out of Kansas City to Des Moines?

A. From four to six.

Q. How many trucks do you have regularly out of the Twin Cities and Des Moines?

A. Five and up.

Q. A minimum of five in each direction?

A. Right.

Q. Now, even though you have five trucks operating between St. Louis and Des Moines and Des Moines to St. Louis on a daily basis you do not have any peddle service to the towns intermediate between Des Moines and Pella on U. S. Highway 163?

[fol. 2156] A. No.

Q. You perform no service at those points?

A. No we don't.

Q. Do you perform any service to points between Oskaloosa and Ottumwa?

A. No. Not to my knowledge at least, we just never have requests for that service on interstate. Those little towns are all served out of Des Moines on intrastate carriers.

Q. What route do you take out of Ottumwa in going to St. Louis?

A. 34 to Mount Pleasant.

Q. And then south?

A. South through Donnellson.

Q. Do you serve Fairfield?

A. No.

Q. Do you serve Mount Pleasant?

A. No.

Q. Your truck goes right through those towns?

A. Right.

Q. And you don't stop there at all?

A. We have no requests. If we have a shipment for Mount Pleasant or Fairfield it might be a hundred or a hundred and fifty pounds once a week.

Q. You don't have an agent in those towns?

A. No. We don't have the business to keep an agent.

Q. Now, down at Pella this arrangement you say was [fol. 2157] worked out to have the local drayman down

there bring shipments into Des Moines, was that an arrangement made sometime about in July or August, 1951?

A. I would say sometime last summer.

Q. As a matter of fact was that not made at the time the 2000 lb. minimum limitation was imposed on the Rock Island Motor Transit operation?

A. Not to my knowledge. The way I made the deal with the transfer company was they wanted to handle it that way at that time. They said it would be more satisfactory to them and they knew they could get it there overnight. And sometimes we didn't have room for it due to bulkiness.

Q. As I understand it what you are doing is this. You are picking up shipments at Pella destined both south and north and the drayman is bringing it into Des Moines to your dock and you are loading them here?

A. Right.

Q. So a shipment destined St. Louis out of the Rolscreen Company would have to be delivered by your drayman to your dock here and your employees put it in the over-the-road truck?

A. Right. In other words, it is an overnight service that way from Pella to St. Louis.

Q. And I take it you also handle shipments destined to the Twin Cities in the same manner, of course?

A. That's right.

[fol. 2158] Q. Does this transfer company that you have down at Pella have any motor carrier authority from the Interstate Commerce Commission?

A. Yes, sir.

Q. What is their number, do you know?

A. I don't know.

Q. What is the name of the carrier?

A. Andeweg Transfer.

Q. On what basis is this carrier compensated?

Mr. Fowler: Object to that as immaterial.

By Mr. Howland:

Q. Does the Andeweg Transfer participate in your traffic or do you pay him by private arrangement?

Mr. Fowler: Object to that as immaterial.
Exam. Carpenter: Overruled.

A. Through rate is charged from Pella to St. Louis. We pay them prorate for their share for bringing it to Des Moines.

Q. Are they parties to tariff of the Middlewest Motor Freight Bureau?

A. It is my understanding they are.

Q. Now at the time you became interested in the Bruce Motor Freight did you make some financial investment in the enterprise?

Mr. Fowler: Object to that as immaterial. After all this is a convenience and necessity case.

Exam. Carpenter: Sustained.

[fol. 2159] Witness Harlan: I would like to correct one thing regarding the tariff. We bill the shipper or consignee, whoever pays the freight, the actual freight—our rate from Pella to St. Louis and we pay him as a drayage rate. I am not sure whether he is in the tariff or not.

By Mr. Howland:

Q. At least you don't pay him as an interline carrier?

A. I take it from actions here he is not.

Q. At the time you became associated with Bruce Motor Freight and interested as one of the owners of it, what was the fact as to whether the Rock Island Motor Transit Company had unrestricted motor carrier authority on U. S. Highway 6?

Mr. Fowler: Object to that as immaterial to any issue in this case, calling for opinion and conclusion of the witness and not the best evidence.

Exam. Carpenter: Objection overruled.

A. I can't tell you. That is too far back. I don't know what the situation was on Highway 6.

By Mr. Howland:

Q. As a matter of fact you know that all during the time you were associated with Rock Island Motor Transit and up until the end of August, 1951, that the Rock Island Motor Transit Company was operating as a carrier in interstate commerce without any restrictions as to size of shipments handled?

Mr. Fowler: Object to that as incompetent and imma- [fol. 2160] terial, calling for an opinion and conclusion of the witness and not the best evidence.

Exam. Carpenter: Objection overruled.

A. I never did check into the authority they had. The only connection I had with them was when freight we had come here routed over their line and turned over at Des Moines.

By Mr. Howland:

Q. And you were not particularly interested in what their authority was so long as they would take your interline shipments?

Mr. Fowler: Immaterial.

Exam. Carpenter: Overruled.

A. I was interested in their operations Des Moines-Twin Cities and Kansas City because for years when railroad rates were five or six cents below us we lost these accounts going to Kansas City. They took it on their trucks and billed it rail. They could get the same service into Kansas City that we could give them and at cheaper rates.

By Mr. Howland:

Q. Has there always been a little separation between rail and freight rates?

A. Not always.

Q. Do I understand, Mr. Harlan, that you contend that the Rock Island Motor Transit Company has at any time

hauled freight by truck on rail billing between Kansas City and Des Moines?

A. Between the Twin Cities and Kansas City. We were told the reason by the traffic managers and it was because the Rock Island Motor Transit Company gave second [fol. 2161] morning service by truck on rail billing.

Q. Do you have any knowledge to the effect that Rock Island Motor Transit Company has hauled any rail freight between Kansas City and Des Moines?

A. Not personal knowledge. That is only what I have been told as the reason we lost the business.

Q. Now, at Oskaloosa—you serve Oskaloosa, as I understand it, with your over-the-road units?

A. Yes, sir.

Q. You have no peddle service between Ottumwa and Oskaloosa or Oskaloosa and Des Moines?

A. No.

Q. And those units go through Oskaloosa at about what time?

A. It varies. It is during the night—after the ordinary working day.

Q. During the night both ways?

A. Yes, sir.

Q. Sometime around 4:30 or 5:00 in the morning on the northbound and 11:30 or 12:00 on the southbound?

A. In that neighborhood.

Q. Are you familiar with the so-called substituted tariff or motor carrier—motor service on rail billing?

A. No.

Q. Have you ever sought to handle any of that business [fol. 2162] between Kansas City and Des Moines—hauling rail freight on trucks?

A. No.

Q. And you are not familiar with the provisions of that tariff?

A. Very slightly. Not enough to go into it.

Mr. Nolan: I want to ask some questions to lay the foundation for request for some documents.

By Mr. Nolan:

Q. Mr. Harlan, on all shipments which your company turns over to interline carriers you have a record, do you not, of the shipment and the date it is turned over?

A. Yes, sir.

Q. And that is carried on pro number?

A. Yes, sir.

Q. Do you have any record of when that shipment is delivered to destination?

A. By connecting line?

Q. Yes.

A. No.

Q. Now, all of your freight bills and records within the past year's time are available, are they not, for inspection by properly constituted authority? And also available to you as President of Bruce Motor Freight? True?

A. Yes, sir.

Q. Has there been any change in turning over shipments by your company to the Iowa-Nebraska Transportation Company in the past thirty days' time?

[fol. 2163] A. Not to my knowledge.

Q. Did your company turn over any shipments to Iowa-Nebraska Transportation Company prior to 1951?

A. I assume so. I can't tell you exactly. We have done business with Iowa-Nebraska for some time.

Q. Would you say the service rendered by Iowa-Nebraska Transportation Company has been satisfactory?

A. I have no personal knowledge of any complaints ever given them.

Q. Would you say a shipment turned over to Iowa-Nebraska Transportation Company at Des Moines some time prior to November 20, 1951, and delivered in Iowa City on November 27, 1951, was satisfactory?

Mr. Fowler: Object to that as immaterial—too remote in period of time.

Exam. Carpenter: Overruled.

A. I would say a lot of things would have to be taken into consideration. There were snow storms and blocked roads and a lot of things that could happen.

By Mr. Nolan:

Q. Would you say a shipment turned over by your company to Iowa-Nebraska Transportation Company on December 28, 1951, and delivered January 3, 1952, was satisfactory?

A. I would say that was in part due to holidays. There were delays of all kinds and sometimes shippers were closed up.

Q. Will you produce your freight bills for the following [fol. 2164] Pro Numbers?

Mr. Nolan: At this time intervenors represented by me request Mr. Harlan to produce freight bills of his company with the following Pro Numbers: S-87012——

(Discussion off the record.)

Mr. Nolan: —K-122092; S-91666; S-120523; S-81733; K-79763; S-76421; K-76555; S-74356; K-108650; S-75038; 72889; S-11848; S-118927; S-73394; S-73588; S-73767; S-73768; S-119050.

At this time intervenors represented by me move the Examiner to require the Witness Harlan to produce the freight bills which have been enumerated above with respective Pro Numbers for inspection by me and parties represented by me in connection with cross-examination of Mr. Harlan.

Mr. Fowler: And upon condition of this record the request is wholly unjustified. It is purely a fishing expedition—an attempt to get clerical work done for them rather than to make their own investigation. It is to determine whether convenience and necessity in this case requires the granting of the application and Mr. Harlan or any other witness is not required to do a lot of physical work to satisfy the whim of some attorney.

Mr. Nolan: This is to the operations of Iowa-Nebraska Transportation Company and these Pro Numbers will refer to freight bills tendered by Mr. Gracey of the Iowa-Nebraska Transportation Company and the request for production of said freight bills is to determine the expe- [fol. 2165] ditiousness or lengthiness of time from the time of shipment by Bruce Motor Freight to Iowa-Nebraska

Transportation to point of destination and is certainly material and relevant as to whether or not there is adequate service available in the territory involved.

By Exam. Carpenter:

Q. Do your freight bills show the time shipments were turned over to the Iowa-Nebraska Transportation Company?

A. I am not sure. He picked out a couple of dates where we had bad weather. I don't think that is unreasonable service. I can't tell if those particular ones do.

Exam. Carpenter: You said date and then you said time. Are you talking about the date or the actual time?

Mr. Nolan: I meant the date when they were turned over to Iowa-Nebraska.

Exam. Carpenter: How many bills are there?

Mr. Nolan: 18.

Witness Harlan: I might add this for the Examiner. I know we are behind in our work. We are short of help and it is vacation time and any additional work like this will put us further behind.

By Exam. Carpenter:

Q. How long would it take you to produce 18 bills?

A. Not very long if the work was all done up.

Exam. Carpenter: I require you to produce them.

[fol. 2166] Mr. Fowler: When does he have to produce them?

Mr. Howland: The bills would be here in Des Moines if the interchange is here.

Exam. Carpenter: He should be able to produce them by tomorrow afternoon.

Mr. Fowler: Mr. Examiner, at the present time it is my inclination to decline to accede to your order. I do, however, wish to reserve my final decision until tomorrow morning.

Exam. Carpenter: You may do so.

By Mr. Nolan:

Q. Mr. Harlan, will you state the volume in percentage of your company's business on interline operations?

A. About 60-40.

Q. 60% direct on your line?

A. 40% direct and 60% interline.

Q. And Des Moines is one of your principal interline points?

A. No, I would say it is not.

Q. Is it a substantial interline point?

A. Yes. Kansas City is the largest. We only have four.

Q. Does your company have a record of all freight bills showing interline operations with Iowa-Nebraska Transportation Company?

A. We have all bills for the past year.

Q. Would they show shipments interlined with various shippers including Iowa-Nebraska?

A. Delivery and received date.

Q. You keep those as permanent records of your company?

[fol. 2167] A. Right, but they would be by Pro Number, not by carriers.

Q. How frequently would you say your company turns a shipment over to Iowa-Nebraska Transportation Company for delivery to destinations on U. S. Highway 6 between Omaha, Nebraska, on the one hand, and the Tri Cities on the other?

A. I would say daily.

Q. Then will you produce for examination by me and the parties I represent delivery receipts or freight bills showing all of the shipments which have been transferred by your company to Iowa-Nebraska Transportation Company at Des Moines for delivery to destination by Iowa-Nebraska Transportation Company to points on U. S. Highway 6 between Omaha, Nebraska, on the one hand, and Davenport, Iowa, on the other, for the months of April, 1952, November, 1951, and August, 1951? Will you produce those?

Mr. Fowler: I will instruct Mr. Harlan to refuse to produce the documents.

A. We cut about 800 bills a day and we would have to go through all of the bills to find which delivery receipts were given to Iowa-Nebraska.

Mr. Nolan: I move to strike the answer as not responsive to the question. It is argumentative.

Exam. Carpenter: Read the question.

(Question read.)

Exam. Carpenter: Motion to strike is overruled.

Mr. Fowler: May I interpose a question or two to Mr. [fol. 2168] Harlan as basis for an objection?

Exam. Carpenter: You may.

By Mr. Fowler:

Q. How much labor will it entail to be able to respond to that request?

Mr. Nolan: We object to any interrogation of this witness as wholly immaterial on such points as that it might be difficult to produce as a valid objection. They come here and say they give a service that is daily and we have a right to determine whether that is true or untrue from documentary records. The fact they are difficult to produce is no reason why they should not produce records here in Des Moines.

Witness Harlan: I have had no direct complaints that I know of on interline on U. S. Highway 6 and if they were serious I would know of it. I can assure you of that.

By Mr. Fowler:

Q. I asked you a question. Describe the amount of labor it would entail to respond to the request made by Mr. Nolan and he interrupted me.

Mr. Nolan: I make the same objection.

Exam. Carpenter: Go ahead.

A. It would be pretty hard to state due to sorting through all of the freight bills you would have to. It might take a couple of girls a week or a week and a half. They would have to go through 800 bills a day.

Mr. Nolan: At this time the intervenors represented by me request that a subpoena issue to Mr. Harlan, the

[fol. 2169] man on the witness stand, directing him to produce and bring with him into this hearing on or before noon of the 22nd day of May, 1952, all freight bills and delivery bills of his company showing shipments transferred by him to the Iowa-Nebraska Transportation Company at Des Moines for delivery by said Iowa-Nebraska Transportation Company to points on U. S. Highway 6 between Omaha, Nebraska, on the one hand, and Davenport, Iowa, on the other, for the month of August, 1951.

Exam. Carpenter: I will reserve my judgment on that until tomorrow morning.

Mr. Cohn: For the record I would like to join in Mr. Fowler's objection to the subpoena.

Exam. Carpenter: Off the record.

(Discussion off the record.)

Mr. Nolan: Let the record show that I request that Mr. C. A. Gracey who was on the witness stand today representing the Iowa-Nebraska Transportation Company be present at the hearing tomorrow for further cross-examination with respect to freight bills which were tendered in connection with Exhibits 31, 32 and 33 because I did not have an opportunity to examine them until after he got off the witness stand today.

Mr. Cohn: Intervenors in support of the application had ample opportunity while Mr. Gracey was still on the stand to request that Mr. Gracey be continued in his appearance here. Mr. Gracey was excused. This afternoon he came [fol. 2170] here prepared to spend the day in this proceeding in behalf of Iowa-Nebraska Transportation Company. He has an engagement in Chicago tomorrow morning and is unable to stay over here for further cross-examination. I am also unable to stay over.

Mr. Howland: May the record show that Mr. Gracey is still present in the hearing room.

Mr. Cohn: We will accede to that at this time. I am unable to be here tomorrow and Mr. Gracey is unable to be here tomorrow.

Exam. Carpenter: Denied. Mr. Gracey has been excused. We will adjourn until 9:30 tomorrow morning.

(At 6:00 p.m., May 20, 1952, hearing adjourned to 9:30 a.m., May 21, 1952.)

COLLOQUY

Exam. Carpenter: You may proceed, gentlemen. Mr. Fowler.

Mr. Fowler: Mr. Examiner, at the conclusion of the hearing yesterday there were two questions which were under consideration; first, the request of counsel for the intervenor that Mr. Harlan produce, I think, it was sixteen specifically identified freight bills, and, second, a request that a subpoena duces tecum issue to Mr. Harlan for some voluminous documents.

With respect to the second question, the Rules of Practice, Section 1.56, specifically provides that unless directed by the Commission upon its own motion, a subpoena to compel a witness to produce documentary evidence will be issued only upon petition which must specify particularly the books, papers and documents desired, and the facts expected to be proved thereby. In view of that fact there isn't any question but what the procedure made for the issuing of a subpoena duces tecum is entirely out of order.

Now, secondly, with respect to the request for this witness to go back to his office and produce freight bills to a greater or lesser degree, our position is this. If we produce a witness in a hearing, we offer his testimony. If the testimony he attempts to offer is not competent, it is subject to objections on the ground it is not competent and not the best evidence. Secondly, the witness is subject to cross-examination, and the facts may be developed which [fol. 2172] go to the weight of his testimony, in which event it is for the Commission to determine as to the weight to be given the testimony, and we shall decline at this time to furnish any documentary proof responsive to requests which have been made from counsel for the intervenor, and which, perhaps, will continue to be made of future witnesses, not because such documentary evidence would not support the witness' testimony but only for the reason we are not going to be put in a position of going back and forth to hunt up proof which the other side, for their pure

whim, might feel they want, and declining to produce these sixteen freight bills, we must, of course prepare ourselves to take the consequences.

Exam. Carpenter: I think it was eighteen freight bills, Mr. Fowler.

Mr. Fowler: All right.

Exam. Carpenter: I shall deny the request for the subpoena made by Mr. Nolan last evening.

Mr. Howland: I would like to inquire as to what the further conduct of the hearing may be. Under the circumstances we have a situation here where the witness is on the stand and testifies the service of the Iowa-Nebraska is satisfactory, and gives his reasons for entertaining that opinion, and it develops that he has a record of interline shipments which will definitely disclose the time of the delivery of those shipments by his line to the Iowa-Nebraska. We asked then that the witness produce eighteen specified freight bills, giving Pro Numbers so that they [fol. 2173] can be readily located by any one familiar with the filing system to see what the situation is, and, as I understand, it was the order of the Examiner that those bills should be produced as a part of and in connection with the cross-examination. Now, if counsel for the objectors refuses to comply with the order of the Examiner in connection with such matters, now that poses the question, of course, raises distinctly the question, whose direction is to prevail in this hearing? We ask that the Examiner formally direct the production of the eighteen specified documents, and, in default of that, we move that all of the testimony of the witness be stricken from the record, both on direct and cross-examination.

Exam. Carpenter: The motion is denied, Mr. Howland. Go ahead and make the record, and then you have recourse to the Commission, to file a petition with the Commission to issue a subpoena. If we have got to have another hearing on this, we will have to have another hearing as far as I can see.

Mr. Howland: You will proceed?

E. W. HARLAN resumed his testimony as follows:

Cross-examination.

By Mr. Nolan:

Q. Now, Mr. Harlan, you testified yesterday that your company had a great deal of freight bills daily, some eight hundred, is that right?

A. Yes, sir.

[fol. 2174] Exam. Carpenter: That is eight hundred a month?

Mr. Howland: Eight hundred a day.

Exam. Carpenter: Eight hundred a day.

By Mr. Nolan:

Q. You do not personally make up those bills or even personally inspect them, do you?

A. No, sir, not all of them.

Q. Well, do you inspect any of them?

A. Occasionally I look at them.

Q. Now, when you say your company turns over freight practically every day to the Iowa-Nebraska Transportation Company, you do not know that of your own personal knowledge from an inspection of the records of your company, do you?

A. Not from an inspection of the records, I do not.

Q. So it is merely conjectural on your part your company turns over at Des Moines freight daily to the Iowa-Nebraska Transportation Company, isn't that true?

A. That is right.

Mr. Nolan: Now, in connection with the testimony of this witness the intervenors I represent move to strike the testimony of this witness as to the regularity and the frequency of the turning over freight, of interline freight from his company to the Iowa-Nebraska as it now appears such testimony appears conjectural, speculative, and not based on any personal knowledge, in fact none by this witness, and for the further reason for the refusal of his company, himself, and his counsel to produce the specified

[fol. 2175] documents requested in connection with the cross-examination of this witness.

Exam. Carpenter: The motion goes to the weight of the testimony of the witness, and for that reason it is overruled. The motion is overruled.

By Mr. Nolan:

Q. Now, Mr. Harlan, you testified that your company turns over certain shipments to the Rock Island Motor for delivery at the destination along U. S. Highway No. 6?

A. Yes, sir.

Q. And are those a special kind and special type of shipments that your company turns over to the Rock Island Motor Transit Company?

A. No.

Q. Is it a fact your company turns over to the Rock Island Motor Transit Company for delivery at destination along U. S. Highway No. 6 and points served by it all of your company's C. O. D. shipments?

A. No, I wouldn't say so.

Q. Well, isn't it a fact you turn over the majority of your C. O. D. shipments?

A. There would be no reason for us doing it.

Q. Well, isn't it a fact you turn over to the Rock Island Motor Transit Company because of the reliability and responsibility of that company as compared with other connecting line carriers serving that territory?

[fol. 2176] A. Absolutely not.

Q. You are sure of that?

A. Yes, sir. The Des Moines Transportation, Iowa-Nebraska, Roberts Transfer, we have never had any trouble collecting C. O. D. money or interline settlements from any of those companies.

Q. Do you personally know of the interline balance existing between your company and the Iowa-Nebraska Transportation Company?

A. Not exactly, no, sir.

Q. Is it in your company's favor or the Iowa-Nebraska Transportation Company's favor?

A. That varies from day to day. Most of those are set-

tled the day the shipments are tendered to the company by cash. What we owe them we pay them. If they owe us they pay us.

Q. You have the Iowa-Nebraska on a current cash basis?

A. No, sir. That is the way we want to operate. We are doing that with all lines, not only the Iowa-Nebraska, all lines we interline with at Des Moines. That is the way we work together at Des Moines, on which settlements are on a cash basis.

Q. Isn't that a new arrangement because of difficulties your company found with the other carriers, particularly the Iowa-Nebraska, on getting settlements?

A. No, sir, absolutely not.

Q. Are you sure of that?

A. Yes, sir.

[fol. 2177] Q. Are you willing to produce for inspection the interline record of your company with the Iowa-Nebraska Transportation Company for the past two years' time?

Mr. Fowler: I will instruct the witness to refuse to do so.

Mr. Nolan: I am asking him to furnish the information.

Mr. Fowler: I have told you he wont.

Mr. Nolan: This witness has got some rights here.

Mr. Fowler: I am telling you he wont.

By Mr. Nolan:

Q. Will you, irrespective of the counsel's statement, and in connection with your examination produce such records for inspection and examination?

A. No.

Q. All right. Now, do you personally know of the record of the Iowa-Nebraska Transportation Company in so far as shipments interlined from your company to that company on the settlement of loss and damage claims?

A. To my knowledge we have never had any trouble with them.

Q. Are you willing to produce your records on that subject?

A. No.

Q. Now, Mr. Harlan, you testified here yesterday that

the continuation of the Rock Island Motor Transit Company's service would be detrimental to your company. Will you tell me in what particular or particulars the continuation, I mean the granting of this application would be different, would provide or afford the Rock Island Motor Transit Company to provide service that would [fol. 2178] be any different than the service it has been giving for the past thirteen years as you understand it?

A. In what territory? Anywhere in their territory.

Mr. Nolan: No, you didn't pay attention.

Exam. Carpenter: Read the question.

Mr. Fowler: He paid attention. Read the question.

Mr. Howland: I move the exclusion of the statement of counsel, "He paid attention."

Exam. Carpenter: It may be stricken.

Mr. Fowler: The statement of Mr. Nolan, "He didn't pay attention" may be stricken.

Exam. Carpenter: It may be stricken, too. Read the question or do you withdraw it?

By Mr. Nolan:

Q. Mr. Harlan, will you state your understanding of how in any way the granting of the application on hearing here would change or enlarge the services of the Rock Island Motor Transit Company in the territory involved as compared with the service and operations of that company prior to any action of the Interstate Commerce Commission in connection with their operating authority?

A. Well, as I understand it, it will give the Rock Island Motor Transit Company an all out motor truck service which, in my opinion, is definitely a new motor truck service that has not been available complete to the shipping public, it just appears to me. That is my, only my personal opinion.

[fol. 2179] Mr. Fowler: Just a minute. Strike that and let the witness answer.

A. It is my personal opinion that the same thing could be true if the Interstate Commerce Commission would let this authority be granted, that we should have the same

right to start a railroad line between the Twin Cities and Kansas City.

Mr. Nolan: Now, I move to strike the answer as not responsive to the question.

Exam. Carpenter: I think the answer was responsive. The motion is denied.

Mr. Howland: I move the discussion of that answer following the words "It is my personal opinion" and with respect to the construction of a railroad line between Minneapolis and Kansas City, as a mere argumentative statement, an opinion and conclusion of the witness.

By Mr. Nolan:

Q. Now, Mr. Harlan——

Exam. Carpenter: Just a minute. Mr. Nolan asked for his opinion and he gave it. The motion is denied.

By Mr. Nolan:

Q. Mr. Harlan, I think my question asked you in what way, if this application were granted, would the service of the Rock Island Motor Transit Company be any different than it was prior to August, 1951.

A. Well, there would be, as I understand, it would be taking off any restrictions whatsoever, and again I say you would have an all out motor carrier service which was [fol. 2180] not the case in the past, it is my understanding it was not.

Q. All right, Mr. Harlan, what was your understanding of the operating authority of the Rock Island Motor Transit Company during the year 1950 in so far as this territory involved is concerned?

Mr. Fowler: For the record, I am going to object to this on the ground it is immaterial to any issue in this case. It is a public convenience and necessity case, and the question which is under review here is whether or not the future and present public convenience and necessity require the operation sought by this application, and the facts that are now being attempted, the facts that are now

being developed relate to a period back in 1950, and aren't material to any issue in the case.

Exam. Carpenter: The motion is overruled. You may answer the question. Do you remember what the question was?

A. Read the question.

(Question read.)

A. It has been my understanding the Rock Island Motor Transit Company had to have a subsequent rail movement and truck movement from one point to another. At least they have never been, so far as our company is concerned, competitive to us in a motor truck service between the points that we serve, and I am sure if the application was granted that they would be a very definite factor, a very new competition that we have not had in the past. They [fol. 2181] would be able to balance their movement.

Exam. Carpenter: Off the record.

(Remarks off the record.)

Mr. Nolan: I move to strike the answer as not responsive to the question as to what they might do in the future for the sole purpose of the record.

Exam. Carpenter: Let the answer stand.

By Mr. Nolan:

Q. Now, Mr. Harlan, if it be a fact, which it is a fact, that the Rock Island Motor Transit Company in this proceedings proposes to do only that which it had been doing for the past thirteen years up to August, 1951, would that change your opinion any as to what the effect of the granting of this application would be?

Mr. Fowler: Just a moment. That is objected to on the ground it assumes facts not established in the record, and secondly, it calls for evidence which is not material to a convenience and necessity application.

Exam. Carpenter: The motion is overruled.

A. Will you read the question, please?

(Question read.)

A. It would not.

Mr. Robinson: Just a moment, Mr. Examiner. I object to the question because counsel for the applicant seeks to answer the question propounded to the witness.

[fol. 2182] Exam. Carpenter: The motion is overruled.

A. It would not change my feeling at all about what the future operations of the Rock Island Motor Transit Company will be if this application is granted. It will be competitively much greater than we have ever had.

Mr. Fowler: Read what Mr. Harlan said. I would like to have it.

(Answer read.)

By Exam. Carpenter:

Q. That is your opinion?

A. Yes, sir.

By Mr. Nolan:

Q. But you did state just a minute ago, did you not, that up to the present time, that the Rock Island Motor Transit Company has not been a competitive factor in your company's business?

A. Not as great as I think it would be if this application is granted due to the fact there has always been this range of these restrictions being put on. That is my understanding.

Q. Who told you to say that?

A. Nobody.

Q. Didn't you say just a minute ago the Rock Island Motor Transit Company hadn't been any competitive factor in your company's business?

A. I didn't say "any". It would be a greater competitive factor.

Exam. Carpenter: Read his answer to the question.

[fol. 2183] (Answer read.)

Exam. Carpenter: Off the record.

(Discussion off the record.)

By Mr. Nolan:

Q. Mr. Harlan, have you given any consideration to the fact that if the Rock Island Motor Transit Company were restricted to rail billed freight, that that would produce a much more competitive condition than if they were engaged in motor carrier operations?

A. Well, I said my feeling on that is that they definitely should not be granted any motor carrier operation, operating authority by motor truck due to the fact of the facilities which they have, that the independent carriers like ourselves have no way to get except through our own efforts, of our own arrangements of our motor trucking companies, where they can definitely get all of the relief and finances, and everything else from their parent company, the railroad, which they need, which causes them to be a much greater competitive carrier than they would be if they had to have a subsequent rail movement before moved by motor truck.

Mr. Nolan: I move to strike the answer as not responsive, and I ask the witness to answer the question and not make a speech.

Exam. Carpenter. Just answer the question in the future, please.

A. That is all I intended to do here.

By Mr. Nolan:

Q. Now, will you please respond to the question. You [fol. 2184] don't need to show off everything that is asked you.

Mr. Fowler: I move to strike the comment of counsel——

By Mr. Nolan:

Q. Now, Mr. Harlan——

Mr. Fowler: —as improper.

By Mr. Nolan:

Q. Have you considered the fact that an operation conducted by the Rock Island Motor Transit Company solely as a rail carrier operation on rail billing, would be, or would not be more competitive, than the Rock Island Motor Transit Company's operation as a motor carrier? Have you considered that phase of the case?

A. Oh, yes.

Q. And if so, what have you taken into consideration with respect to it?

A. Certainly I have considered it. I don't feel it would be as competitive as it would be if an all out motor truck service was granted.

Q. Have you talked to any other carrier, such a the representative of the H & W Motor Express Company in regard to whether or not it was their judgment it would be more competitive if the Rock Island Motor Transit Company was operating solely on rail billing than on motor carrier billing.

Mr. Fowler: Now, just a moment. That obviously calls for hearsay.

Exam. Carpenter: Let him answer.

A. There is a different opinion among the H & W Motor [fol. 2185] Express as to exactly what it does mean. I talked to them.

Q. You know their attitude on this subject?

A. I do very well right now.

Q. Now, Mr. Harlan, isn't it a fact that there is a differential between rail rates and motor carrier rates?

A. In some cases. Those things vary from month to month.

Q. And isn't it a fact that rates are an important factor in whether or not you get business or don't get business?

A. I would say it is a factor.

Q. And isn't it a fact that if the Rock Island Motor Transit Company was operating solely on rail billing, that they would have the benefit of a lower rate than if they were operating on a motor carrier billing under present conditions and under conditions which existed in the past?

A. Not necessarily.

Q. Now, you have been active in the motor carrier industry here in the Midwest, have you not?

A. To some extent.

Q. Are you acquainted with Mr. Walter Hitchen of the Rock Island Motor Transit Company?

A. Yes, sir.

Q. You participated in the different tariff meetings, rate meetings, and so on and so forth for your company?

Mr. Fowler: Just a moment. I am going to object to this line of questioning. It is immaterial to any issue involved in this case, and it is not proper cross-examination.

[fol. 2186] Exam. Carpenter: Objection sustained.

By Mr. Nolan:

Q. Well, Mr. Harlan, the Rock Island Motor Transit Company has participated as a motor carrier, has it not, of the Midwest Tariff Bureau, of which your company is a member?

A. Yes, sir.

Q. It has had its representatives at the traffic meetings or other meetings of that Bureau?

A. Yes, sir.

Q. Representatives of that company have been officers for your Motor Carrier Rate Bureau of the Midwest group?

Mr. Fowler: That is objected to as immaterial, not proper cross-examination. There isn't any dispute in the record that they are members of the Middlewest Motor Freight Bureau. Mr. Hitchen testified as to such. It is not proper cross-examination.

Exam. Carpenter: I will overrule the objection. Read the question to him.

(Question read.)

By Mr. Nolan:

Q. Or whatever this Kansas City group is.

A. Middlewest Motor Freight Bureau. Yes.

Q. And the Rock Island Motor Transit Company have

participated in the industry of the motor carriers as any other motor carrier in the group has participated?

Mr. Fowler: Objected to as immaterial.

[fol. 2187] Exam. Carpenter: Objection overruled.

A. They have participated in it.

By Mr. Nolan:

Q. Now, Mr. Harlan, a couple more questions. Are you able to tell us what percentage of the total volume of your company's business is represented by the business that your company interlines at Des Moines for delivery to destinations along U. S. Highway No. 6 between Council Bluffs and Davenport, Iowa?

A. I could not give you any figure on that.

Q. Before you came over here to testify did you attempt to prepare yourself on that subject and inspect your records for that purpose?

A. I didn't inspect our records at all.

Q. Are you able to give us any idea as to what per cent of your company's business is represented by business that you interline at Des Moines for destination at points on U. S. Highway No. 6 between Council Bluffs, Iowa, and Davenport, Iowa?

Mr. Fowler: This line of interrogation is objected to as immaterial to any issue in the case.

Exam. Carpenter: Objection overruled.

A. It wouldn't mean anything. I could not give you an accurate enough estimate of what it would be.

By Mr. Nolan:

Q. You can not give us any idea at all?

A. I can give you an idea, but I say, I don't think it will mean anything. Between five and ten per cent of our business.

[fol. 2188] Q. And is that business that is interlined from other carriers to your company at Des Moines?

A. That is right.

Q. And would it be fair to say that half of whatever per-

cent of your business that is interlined at Des Moines is interlined for destinations along U. S. Highway No. 6?

A. No.

Q. It would be for other points, is that right?

A. Yes, that is right.

Q. Now, Mr. Harlan, did I understand you to say yesterday your company doesn't stop any where between Des Moines and St. Louis, Missouri, in opefating its line from Des Moines to St. Louis, Missouri?

Mr. Fowler: That is objected to as repetition.

By Mr. Nolan:

Q. Except Oskaloosa, Iowa?

Exam. Carpenter: I overrule the objection.

A. And Pella.

By Mr. Nolan:

Q. Did I understand you yesterday to say you have an arrangement whereby you have some drayman at Pella bring up merchandise from Pella each day and load it on your truck at Des Moines so you will not have to stop at Pella?

Mr. Fowler: That is objected to as repetition.

Exam. Carpenter: The objection overruled.

A. That is only for these large window frames. We do make stops in Pella at the Andeweg dock, and we do make [fol. 2189] deliveries there every night at Pella, as well as at Oskaloosa, but on these large window frames, and the type of freight, we are not sure can be loaded at Pella on our southbound truck, due to the fact we do not know what those sized shipments would be until we get there, those are loaded in Des Moines on our trailer that night.

By Mr. Nolan:

Q. Do you stop your line trucks at Pella to pick up and drop this freight?

A. Yes, sir.

Q. Daily?

A. Yes, sir.

Q. Now, will you state for the record what points are on the route between Des Moines and St. Louis other than Oskaloosa and Pella?

Mr. Fowler: Objected to as immaterial.

By Mr. Nolan:

Q. Where you have rights to serve.

Exam. Carpenter: The objection overruled.

A. May I have an Iowa map and a Missouri map?

Exam. Carpenter: I can give you an Iowa. I don't know about Missouri.

A. Do you want me to read every point?

By Mr. Nolan:

Q. Yes, of this line, get the record complete.

A. Prairie City, Iowa, Monroe, Iowa, Otley, Iowa, Pella, Iowa, and Oskaloosa, Iowa.

Q. Now, I am asking you to name the points on that [fol. 2190] route that you have authority to serve, but you do not serve, you do not make stops, you say you stop at Pella and Oskaloosa?

A. We have authority to all points on our route between Des Moines and St. Louis.

Q. All right, give us all of the points, then. Go right on.

Exam. Carpenter: Now, wait a minute. You have got the witness confused, I think, by those questions. What do you want, Mr. Nolan, all of the points he serves, or those on the route he doesn't serve?

Mr. Nolan: I want all of the points on the route between Des Moines and St. Louis his company has authority to serve.

Exam. Carpenter: That is what he was giving to start out with, I think.

A. That is right.

Mr. Nolan: All right.

A. Is that what you want?

Exam. Carpenter: You have withdrawn your question?

Mr. Nolan: My question provided with the exception of Pella and Oskaloosa. We will go it the other way now and have him give all of the points.

Exam. Carpenter: All right, go ahead from where he stopped.

A. Fremont, Iowa, Ottumwa, Iowa, Fairfield, Iowa, Agency, Iowa, Batavia, Iowa, Lockridge, Iowa, Mount Pleasant, Iowa, Donnellson, Iowa, Charleston, Keokuk, Iowa.

By Mr. Nolan:

Q. And for shortening the record up, at all points on the [fol. 2191] route between Keokuk, Iowa, and St. Louis?

A. All points.

Q. What route do you follow?

A. What is it?

Exam. Carpenter: 61.

A. 61 I think it is. 61, U. S. 61.

By Mr. Nolan:

Q. And you have authority to serve all points intermediate between Keokuk and St. Louis?

A. Yes, sir.

Q. On Highway 61?

A. Yes, sir.

Q. And on that certain route, then, as I understand your testimony, your company serves only the points of Pella and Oskaloosa, Iowa?

A. We serve them all, either direct or through connecting line service.

Q. But your company doesn't give direct local service out of your own truck?

A. Not on all shipments, no.

Q. You will give delivery and pick up if it is a volume shipment, isn't that true?

A. Not necessarily. If it was a volume of business, even

L. T. L. shipments from the towns we serve so we could set up our own agency and have an agency setup in those towns, we would start serving those towns.

[fol. 2192] Q. Isn't it true, Mr. Harlan, if there was enough business in any of these points for your company to set up its own terminal, or sufficient volume of business so there would be a truckload movement in or out, you would give local service to those points?

A. We would give direct service to those points.

Q. But you do not give service where you have to drop it there from a line truck, isn't that true?

A. We would if there would be a volume of business so we could install an agent or a drayman in those towns to take care of the business for us. We have never had enough business in any of those towns offered to us. It is a very occasional shipment, and the ones that are carrying those shipments are carriers that have the intrastate authority, and have a volume of business so they can setup an agency in those towns.

Q. Does your company have intrastate authority along that route?

A. No, sir.

Q. What is your answer, where there is a sufficient volume of business to make it profitable, to either setup your own agency or acquire an agency and then you will give local service to that point; where there isn't a volume of business, then you don't give local service?

A. We have never had any difficulty arranging it the way we are doing because freight for those towns is mostly coming from Des Moines, and that is all carried by the intrastate carriers. There is very little interstate business that we get for those towns.

[fol. 2193] Q. Irrespective of very little or a great deal, you don't provide a local service to those points along that route except Pella and Oskaloosa, isn't that true?

A. Except occasionally I would say when there is volume shipments going into those points.

Mr. Nolan: That is all.

Mr. Howland: I would like to ask just a few questions, the Examiner please, on further cross-examination.

By Mr. Howland:

Q. With respect to the operations of the Bruce Motor Freight Line, was it about the year 1943 that you became connected with the Bruce Motor Freight Line, Mr. Harlan?

A. February 1, 1944.

Q. February 1, 1944?

A. Yes, sir.

Q. All right. I will ask you if it is not true that your revenues for the calendar year 1944 of the Bruce Motor Freight Line were $409,031, or approximately that figure?

Mr. Fowler: Now, just a minute. That is objected to as not proper cross-examination, immaterial. The subject was not gone into at all on direct examination.

Exam. Carpenter: Overruled.

A. I wouldn't answer that without having the records, and I don't have the records with me.

By Mr. Howland:

Q. Well, can you tell me this without your records. Has [fol. 2194] the business of the Bruce Motor Freight Company since the year 1944 shown an increase each year?

Mr. Fowler: That is objected to as immaterial, not proper cross-examination.

Exam. Carpenter: Objection overruled.

A. I think so. I wouldn't be sure of that.

Q. And is it not true that the 1951 volume of revenue, gross revenue from the operations of the Bruce Motor Freight Company were approximately four times the revenues in 1944?

Mr. Fowler: Objected to as immaterial and not proper cross-examination.

Exam. Carpenter: Objection overruled.

A. I wouldn't go into that without my records.

By Mr. Howland:

Q. Well, do you know anything about the comparative tonnage that was handled in the years 1944 and in subsequent years?

Mr. Fowler: Objected to as immaterial, not proper cross-examination.

Exam. Carpenter: Objection over ruled.

A. I wouldn't go into it without my records.

By Mr. Howland:

Q. You wouldn't deny your 1944 tonnage was 47,453 tons and there has been an increase each year, and in 1951 your tonnage was 80,749 tons of freight handled?

Mr. Fowler: Objected to as not proper cross-examination, immaterial to any issue in this proceeding.

[fol. 2195] Exam. Carpenter: Objection overruled.

A. I could not answer that without my records.

By Mr. Howland:

Q. And what is the fact as to whether during this period there has been a substantial increase in the number of units of equipment owned by the Bruce Motor Freight?

Mr. Fowler: Objected to as not proper cross-examination, immaterial to any issue in the case.

Exam. Carpenter: Objection overruled.

A. I wouldn't say a substantial number, no.

By Mr. Howland:

Q. Well, what is the fact whether in 1944 you had a total of twenty-six units of equipment owned by your company, and you now have thirty-six units of equipment at the end of 1951?

Mr. Fowler: Objected to as not proper cross-examination and immaterial to any issue in this case.

Exam. Carpenter: Objection overruled.

A. I don't know what we have now without checking the records.

By Mr. Howland:

Q. What did you have at the end of the year?

A. 1951 we had approximately thirty units, that is tractors-trailers, and pick-up equipment.

Q. That would be a tractor and semi as one unit?

A. No, a tractor is one unit and a trailer is another unit. That is two units.

Q. Do you use leased equipment on the trip lease basis in your operations?

[fol. 2196] A. Yes, sir.

Mr. Howland: I think that is all I have.

Exam. Carpenter: Off the record.

(Discussion off the record.)

By Mr. Howland:

Q. Well, just for the record I will ask you, Mr. Harlan, if you are willing to produce the following figures for the years 1944 to 1950 for the Bruce Motor Freight Line, namely, the gross volume of tonnage handled, the gross revenue, and the net profit in each of the years?

A. No.

Mr. Howland: That is all I have, if the Examiner please.

Redirect examination.

By Mr. Fowler:

Q. Mr. Harlan, do you want to tell Mr. Nolan the conversation you had with the different partners of the H & W Motor Express Co., about this case.

Mr. Nolan: That is objected to.

Exam. Carpenter: Overruled.

A. Yes, sir.

By Mr. Fowler:

Q. All right, tell him what the difference of opinion is between the partners.

A. Well, the partner I talked to was Cyril Wissel, and he told me he didn't understand all of the things that were involved in this Rock Island application, and it was his

opinion that he should probably come in and take an opposite position than Mr. Vic Grice, who is the General Manager, had taken in the case, due to the reason he didn't [fol. 2197] understand all of the things that were involved in this application.

Mr. Nolan: I move to strike that answer as mere hearsay and incompetent.

Exam. Carpenter: Off the record.

(Statements off the record.)

Recross-examination.

By Mr. Nolan:

Q. Mr. Harlan, what is your capacity with the Bruce Motor Freight Company?

A. President and General Manager.

Q. And is that a corporation?

A. Yes, sir.

Q. Organized under what laws?

A. Missouri.

Q. And who are the officers of the corporation?

A. Myself, my wife, L. M. Smith, Office Manager, and Dale Nunnelley of Kansas City.

Q. Why is your company organized under the laws of Missouri when your principal place of business is here at Des Moines?

A. It was organized back some years ago before I came into the company, and they haven't changed it. For what reason it was organized in Missouri at that time I don't know.

Mr. Nolan: That is all.

Mr. Fowler: That is all.

Exam. Carpenter: You are excused. Thank you.

[fol. 2198] (Witness excused.)

Exam. Carpenter: A five minute recess.

(Short recess.)

Mr. Bradshaw: Mr. Pasch.

J. F. Pasch was sworn and testified as follows:

Direct examination.

By Mr. Bradshaw:

Q. State your name and your address.
A. J. F. Pasch, P-a-s-c-h.
Q. Where do you live, Mr. Pasch?
A. Grinnell, Iowa.
Q. What business are you in?
A. I am in the transfer and storage business.
Q. And does that transfer and storage business have a name?
A. Pasch Transfer.
Q. It is located in Grinnell?
A. That is right.
Q. How long have you had this business in Grinnell?
A. About twenty-one years.
Q. And are you the owner and operator of that business?
A. That is right.
Q. What sort of facilities have you got?
A. You mean for storage?
Q. In the way of warehouse.
A. Well, I have a warehouse. I have storage. I have [fol. 2199] a dock there, of course, where they back up. Of course, I do my own work.
Q. And do you handle freight in and out of Grinnell, that is in interstate commerce?
A. That is right.
Q. And you handle freight from Chicago?
A. That is right.
Q. From Omaha?
A. Right.
Q. You don't haul that freight yourself?
A. What do you mean, into Grinnell?
Q. That is right.
A. No.
Q. Or out?
A. No, sir.
Q. In other words you are more of a drayman?
A. A cartage company.

Q. You call it?
A. That is right.
Q. What transportation companies come into your dock?
A. Well, I have the Des Moines Transportation, the Van Wyk, Western, and I also have the M. & St. L. Railroad and their truck line.
Q. Do you have freight coming in and out of Grinnell through your dock daily from Chicago?
[fol. 2200] A. That is right.
Q. And points east?
A. That is right.
Q. And about the same from the west?
A. Yes, sir.
Q. Do you solicit freight for these companies you mentioned in Grinnell?
A. Yes, sir.
Q. Are you acquainted with the Firestone Store, Arthur Wee?
A. I am.
Q. And do you have occasion to pick up freight from Mr. Wee?
A. That's right.

Mr. Howland: You mean deliver freight.

A. I deliver and pick up also. I pick up for the various companies.

By Mr. Bradshaw:

Q. And how about a hardware dealer by the name of M. F. Zimmerman?
A. Yes. He isn't really a hardware dealer. You would call him an accessory, I guess.
Q. You pick up and deliver there?
A. That is right.
Q. And a drug store there Earl Mathews runs?
A. Yes, sir.
Q. You pick up and deliver freight there?
A. I do.
[fol. 2201] Q. And another hardware dealer by the name of Ritter. Do you know him?
A. Yes, sir.

Q. You pick up and deliver there?
A. That is right.
Q. How about Walter McCann Variety Store?
A. I do.
Q. And do you deliver to the shoe manufacturer there by the name of Paul Brink?
A. Yes, sir.
Q. But you do not pick up at that point?
A. No, I do not. I did once a long time ago but we don't get very much out of there.
Q. Do you know why you don't get much out of there?
A. No, I can't answer that question.
Q. Did you bring a few freight bills in with you?
A. Yes, I brought quite a few.
Q. Will you just go through and give us three or four typical examples of freight coming in to your dock?
A. The name and wherefrom, is that the idea?
Q. That is right.
A. Well, I have got the College Book Store.
Q. What is the Pro Number of that?
A. The Pro is 647507.

Mr. Howland: Just a minute now, if the Examiner [fol. 2202] please. I don't know the object or purpose of the evidence which is being offered. I am not aware that we have taken, the applicant has taken the position there is no other service at Grinnell, and I want to point out at this time that if we are going into the question of the service rendered by the other carriers at Grinnell, then we feel that if the matter is opened up, that the door is open for cross-examination for the production of records which may refute or put a different construction upon the evidence given by the witness.

Mr. Bradshaw: Well, if Mr. Howland wants to concede there is adequate service other than the Rock Island Motor Transit Company's service at Grinnell——

Mr. Howland: We don't concede it is adequate. We admit there are other carriers into Grinnell, and our evidence so shows. We don't believe it is adequate.

Mr. Fowler: Go ahead.

Mr. Nolan: The intervenors represented by me object to this witness referring to any freight bills unless all freight

bills of shipments handled by this witness at Grinnell be produced for inspection.

Mr. Bradshaw: Just——

Exam. Carpenter: All freight bills over what period of time, Mr. Nolan?

Mr. Nolan: At least the last year's time for the purpose of determining the frequency, regularity and other quali- [fol. 2203] fications and character of service of the companies servicing Grinnell. Now, certainly they shouldn't be permitted to go in here and offer only what they want to and not produce the whole record at least over a reasonable period of time to show what the going picture is.

Mr. Howland: We join in that objection. That was the subject of my statement.

Mr. Bradshaw: Why not let me ask a couple of questions to show what he brought in?

By Mr. Bradshaw:

Q. Mr. Pasch, you brought some freight bills in to the hearing?

A. That is right.

Q. And what period of time and what companies do those freight bills cover?

A. I have some for 1951, and I have some of the recent ones.

Q. And what period of time during 1951 do you have freight bills for that are here for examination by any one in the room?

A. These run from January, 1951, I see, to a part of February, 1951, and the others are just the recent freight bills.

By Mr. Howland:

Q. Those are not all of your freight bills?

A. Oh, no, sir.

By Mr. Bradshaw:

Q. You procured some for 1952?

A. Yes, Maybe not that many, about the same amount. About a month and a half of each.

Q. Would you just read some of the examples, telling us——

[fol. 2204] A. This is, what do you want, 1951?

Exam. Carpenter: Maybe you better tell me, what is the purpose of it? What are you producing these for, Mr. Bradshaw?

Mr. Bradshaw: To show the service of these companies coming into his dock.

Exam. Carpenter: The service he renders?

Mr. Bradshaw: He renders.

Exam. Carpenter: He renders at his dock. Go ahead.

Mr. Howland: We make the objections on the ground previously urged, that it is not a proper procedure to show service by the introduction of a limited number of bills, or receipted bills, or delivery receipts, without according the interested parties the right to examine for a period of time all of the freight bills in the custody of the witness.

Exam. Carpenter: The objection overruled.

Mr. Bradshaw: What was the question now?

(Question read.)

By Mr. Bradshaw:

Q. Mr. Pasch, just from your own personal knowledge will you, using your freight bills to refresh your memory, tell us of some of the shipments that have come into your dock in the past two months?

A. Well, some of them I deliver for nearly every store in town pretty near every day.

Q. Are those L. T. L. or truckload shipments?

A. All L. T. L., most of them.

[fol. 2205] Q. And can you give us an example of some of those shipments as to weight?

A. Of course, they vary. Some of your shipments are small shipments, minimum shipments. Others run up, one thousand, twelve hundred, fifteen hundred pounds.

Q. And who are some of these various customers that you are talking about?

A. You could name every one in town because I make——

Q. Just give us their name.

A. Mathews Drug Store, Rexall Drug Store, George Payton, appliances.

Q. You deliver to the College all right?

A. Yes, I was at the College yesterday.

Q. What did you deliver there?

A. I took thirty-five pails of adhesive paste there. They are building a new science building and they went there.

Q. Do you know where that came from?

A. I think it came from Ohio, unless I am mistaken. I can be wrong on that.

Q. And have you been carrying out this general service for several years?

A. For about twenty-one years I have represented more or less all of the truck lines at some time or other.

Q. And I believe you testified that you can through these carriers give daily service from Omaha to Grinnell? [fol. 2206] A. That is right.

Q. And from Chicago to Grinnell?

A. Yes, sir.

Q. And do you get anything out of Kansas City?

A. Occasionally, yes, sir.

Q. And how about the Tri-Cities?

A. The Tri-Cities, yes, sir.

Q. The Tri-Cities?

A. We get freight out of there.

Q. The Twin Cities?

A. That is right.

Q. And those are mostly L. T. L. shipments?

A. They are, the biggest share of them are, yes, sir.

Mr. Bradshaw: I believe that is all.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Howland:

Q. Mr. Pasch.

A. Yes, sir.

Q. You do a general cartage business, as I understand it, in Grinnell?

A. That is right.

Q. And that includes doing local distribution for the merchants or businessmen, or individuals in town?

A. Mmmmhuh.

Q. Is that right?

[fol. 2207] A. I was confused just a wee bit by him coming over. Your question was?

Q. You do a general drayage business?

A. That is right.

Q. And storage business?

A. That is right.

Q. In the town. Now——

A. Excuse me just a minute, if you please.

Exam. Carpenter: Off the record.

(Discussion off the record.)

By Mr. Howland:

Q. Now, Mr. Pasch, with respect to the Des Moines Transportation, the trucks come in to your place of business at what time of day?

A. Well, there is usually one in the morning. Oh, he would be in there shortly after 8:00. I would say any time from 8:15 to 8:45. As a rule he is in there at that time. In the evening they will vary. They will run from around 4:00 until 5:00. Sometimes, earlier.

Q. Now, do you have any information with respect to rate or tariffs?

A. No, sir.

Q. Or anything of that sort?

A. No, sir.

Q. And what is the situation in the event a shipment comes in and is delivered, and it is discovered there is [fol. 2208] some damage in connection with it?

A. They call me and I go over and make an inspection on it, and make out an inspection report, and send it in to the company.

Q. You follow that as a general policy, do you?

A. Yes, sir.

Q. You do that for all of the carriers?

A. That is right.

Q. The Des Moines Trans., Van Wyk, and Western?

A. Yes, sir.

Q. And the M. & St. L. Railroad?

A. The M. & St. L. agent is right there and he takes care of that himself. I tell him about it and he takes care of that himself.

Q. Do you have any way of communicating with the officers of the company?

A. Yes, by telephone only.

Q. By telephone only?

A. That is right.

Q. And you don't have any advance information with respect to changes in schedules, and things of that sort, do you?

A. No, I don't. If there are any changes made they usually write me or call me.

Q. Now, you handle shipments at Grinnell for the Des Moines Transportation from Davenport, Iowa, destined to Grinnell, Iowa?

A. Davenport, Iowa?

[fol. 2209] Q. Yes.

A. I don't think they can pick up in Iowa, can they?

Q. The question is, do you handle anything originating at Davenport and destined to Grinnell?

A. They don't pick up anything in Davenport.

Q. That isn't my question. Just answer my question.

Mr. Rosenbaum: Do you mean intrastate or interstate?

Mr. Howland: I am asking him.

A. I answered the question. They can not pick up in the State of Iowa.

Exam. Carpenter: Answer the question.

A. I don't know, then.

By Mr. Howland:

Q. You don't? All right. Now, do you perform all of the pickup and delivery service for all of the carriers that come into Grinnell other than the Rock Island Motor Transit Company?

A. No, sir, I do not.

Q. What other carriers are there?

A. There is the Iowa-Nebraska. That is Watson Bros., and I think Bos comes down there occasionally.

Q. Bos?

A. Out of Marshalltown.

Q. Out of Marshalltown?

A. That is right.

Q. Do you do pickup and delivery work for the Rock Island Railroad?

[fol. 2210] A. No, sir.

Q. There are other carriers, competitors of yours, that do that work in Grinnell?

A. Yes, I imagine. The Iowa-Nebraska makes their own pick-ups, and I don't know of any one else that does.

Q. Now, the Rock Island Railroad has company-owned pick-up and delivery trucks in Grinnell?

A. That is right.

Q. Or there is on the street there?

A. That is right.

Q. And they have their own local agent at Grinnell, is that right?

A. Mmmmhuh, that is right.

Q. Now, do you know anything about the frequency of the Iowa-Nebraska service into Grinnell from the east?

A. No, I don't. They are in every day, I know that. I see their truck every day.

Q. You see a truck in there about every day?

A. That is right.

Q. You don't know whether that service is from the east?

A. That is right, sir.

Q. Which way is that truck headed when you see it?

A. It is in the alley.

Q. Don't you see it out on the highway?

[fol. 2211] A. I don't go out on the highway.

Q. I mean in town on the streets, Highway No. 6.

A. I can't exactly say I have seen it on No. 6 highway. It might have been there.

Q. Do you know what the service of the Western Transportation Company is to Grinnell?

A. What time they come in, do you mean?

Q. Yes, what time do they have trucks there?

A. Well, they have one there every afternoon. It will vary anywhere from 2:00 to 4:00 o'clock.

Q. And which way is that truck headed?

A. And in the morning shortly after 8:00.

Q. Which way is this truck headed that comes in from 2:00 to 4:00 o'clock.

A. That is the one occasionally going east.

Q. Going east?

A. Yes. The morning truck that gets in there about 8:00, going west.

Q. Now, the one that comes in around 2:00 to 4:00 o'clock in the afternoon is headed east?

A. Is headed east.

Q. Is headed east. What type of shipments, and from what points?

A. As a rule that truck picks up.

Q. As a rule that truck picks up?

[fol. 2212] A. That is right.

Q. Does it make any delivery?

A. As a rule my freight all comes mostly from the east.

Q. And that you say, there is a truck there about how often?

A. Every day.

Q. The Western operate on a daily schedule at that point?

A. Well, they come into my place every day.

Q. Does the Des Moines Trans. come into your place every day?

A. Not every day. Occasionally they will miss, but almost every day.

Q. Now, Van Wyk comes in from the south, does he not?

A. He comes in from Sully, yes, sir.

Q. And Van Wyk doesn't handle any freight from points outside of the State of Iowa, does he?

A. Why, no, he just interlines with some one, I imagine.

Q. Does he handle any interstate freight as a matter of fact?

A. Why, yes.

Q. He does?

A. I am sure he does.

Q. From what interstate points have you handled?

A. Freight going out of the State?

Q. Coming from outside of the State of Iowa.

A. Coming into the State?

Q. Yes.

A. That is an interline haul. He doesn't go out of the [fol. 2213] State to bring it in.

Q. I understand that. Does he have any certificate authorizing him to transport freight from interstate points?

A. I do not know. I can not answer that question.

Q. But you have handled freight, delivered freight for him that he has brought in to Grinnell from points outside of the State of Iowa, that originated outside of the State?

A. I think so, but I don't look at every freight bill to see where the freight come from.

Q. Would any of your freight bills here show that?

A. I think they would. I don't know. No, maybe I am wrong on that question. These are an in Iowa. Maybe I could be wrong on that one.

Q. Shipments entirely within the State of Iowa, as far as the bills?

A. As far as these bills show, they are all in the State of Iowa.

Q. Now, the M. & St. L. truck freight service comes into Grinnell from what points?

A. Well, I guess they originate really out of Des Moines, go down to Marshalltown, and into Grinnell.

Q. Who brings them to your dock?

A. They don't bring them to my dock. I have to go to the M. & St. L. freight house and pick up that freight.

Q. You get that at the M. & St. L. freight house?

A. That is right.

[fol. 2214] Q. Does that come in to Grinnell by truck?

A. That is right.

Q. Or by freight car?

A. All by truck.

Q. You are not familiar with the route it travels?

A. No, I am not. I am positive it comes out of Des Moines, and to Marshalltown, and down 146 to Grinnell.

Mr. Howland: That is all I have.

Mr. Bradshaw: That is all.

Exam. Carpenter: Mr. Nolan?

Mr. Nolan: No cross-examination.

Exam. Carpenter: You are excused. Thank you.

(Witness excused.)

Mr. Robinson: The Examiner please, before I start with this witness I desire to add to my appearance, an appearance for G. H. Wolter, doing business as P. & W. Truck Line, Albia, Iowa, intervenor in opposition.

Joe Bos was sworn and testified as follows:

Direct examination.

By Mr. Robinson:

Q. Will you state your name, sir?
A. Joe Bos.
Q. And where do you live, Mr. Bos?
A. Marshalltown, Iowa.
Q. And what company are you associated with?
[fol. 2215] A. Bos Truck Lines, Inc.
Q. And what capacity are you with that company?
A. President.
Q. Is the Bos Truck Lines, Inc. a corporation?
A. Yes.
Q. And does the company have a certificate issued by the Interstate Commerce Commission?
A. Yes.
Q. Does it have more than one certificate?
A. Yes.
Q. And is your Certificate No. MC-44055?
A. Yes.
Q. And Sub Numbers thereto?
A. Yes.
Q. And there has been presented to you, which has been marked for identification as Exhibit No. 34?

Exam. Carpenter: It may be marked for identification Exhibit No. 34.

(The statement referred to was marked as "Intervenor's Exhibit No. 34, Witness Bos," for identification.)

By Mr. Robinson:

Q. And does that consist of seven sheets?
A. Yes.

Exam. Carpenter: How many sheets?

By Mr. Robinson:

Q. And does that include a copy——

Exam. Carpenter: How many sheets?

[fol. 2216] Mr. Robinson: Seven.

Exam. Carpenter: I have got four.

Mr. Robinson: Back to back.

Exam. Carpenter: It is four sheets.

Mr. Robinson: Four sheets, all right.

By Mr. Robinson:

Q. And does that include a copy of your Certificate of February 17, 1948?

A. Yes.

Q. And one of December 2, 1948, Sub. 24?

A. Yes.

Q. And Sub. 25 of December 2, 1948?

A. Yes.

Q. June 2, 1950, Sub. 27?

A. Yes.

Q. October 13, 1949, Sub. 28?

A. Yes.

Q. October 13, 1949, Sub. 29?

A. Yes.

Q. And November 10, 1949, Sub. 30?

A. Yes.

Q. Is that correct?

A. Yes.

Q. And May 28, 1951, Sub. 32?

A. Yes.

Q. August 24, 1951, Sub. 34?

[fol. 2217] A. Yes.

Q. Now, in the certificate issued February 17, 1948, which is your main certificate, do you have authority to operate between Chicago and Omaha over U. S. Highway No. 6 in the State of Iowa?

A. Yes.

Q. And does your certificate authorize you to serve all intermediate points located on U. S. Highway No. 6 in the State of Iowa?

A. Yes.

Q. Now, what equipment does your company have?

A. We have sixty trailers, forty tractors, and seventeen straight trucks, and we do a lot of leasing.

Q. How many terminals do you have?

A. Four.

Q. And where are those terminals located?

A. Chicago, Marshalltown, Des Moines, and Omaha.

Q. Now, your equipment, is that company-owned?

A. Yes.

Q. Now, your terminals, are they company-owned or are individually owned?

A. I own them individually and rent them to the company.

Q. About how many employees do you have?

A. A little over one hundred.

Q. About how frequently do you operate trucks between [fol. 2218] Chicago and Omaha?

A. Daily service.

Q. And you operate more than one truck a day?

A. Yes.

Q. About how many trucks do you operate a day?

A. We will probably have on No. 6, we always have one to two out of Omaha to Des Moines every day, and two to three out of Chicago to Des Moines every day.

Q. And, in addition to your operation on No. 6 between Chicago and Omaha, do you operate also across the State of Iowa on No. 30?

A. Yes.

Q. Serving Chicago and Omaha?

A. Yes.

Q. And how many trucks do you operate daily on No. 30?

A. It will run about six to seven in and out of Chicago, and out of Marshalltown.

Q. Is your equipment that you operate on U. S. Highway No. 6 always utilized? By that I mean are you always loaded to capacity?

A. Yes.

Q. Could you haul more freight than you are now hauling with the same equipment?

A. Oh, yes. Our business is off the first three months to

what it was three months a year ago over $10,000, so we [fol. 2219] know we can do that.

Q. You say your business in the first three months of 1952 is less than the first three months of 1951 by $10,000?

A. Yes.

By Exam. Carpenter:

Q. That is for the total entire System?

A. Yes.

By Mr. Robinson:

Q. Do you have, in addition to your terminal, do you use draymen or cartage men located on the highway in Iowa?

A. Yes, we do.

Q. And where are they located?

A. We have one in Atlantic, one in Newton.

Q. You have one in Mitcheliville, Iowa?

A. No, we deliver that direct. We have a truck that runs out of Des Moines as far as Grinnell two or three times a week.

Q. And how many trucks do you have located in Des Moines that make pick-up and delivery service?

A. We have about eight pick-up and delivery trucks in Des Moines.

Q. That are stationed in Des Moines all of the time?

A. Yes, and about, I would say about seven to ten semi-trailers we keep here all of the time.

Q. And about how many trucks do you have at Mashalltown you use for pick-up and delivery service for points nearby Marshalltown?

[fol. 2220] A. Oh, we keep about eight pick-up trucks in the City of Marshalltown, and we have probably twenty-five or thirty available equipment at all times in Marshalltown.

Q. How many trucks do you have at Omaha you can use for pick-up and delivery service?

A. We have about six pick-up trailers in Omaha, besides we have three or four semi-trailers there all of the time.

Q. Now, you are operating and rendering service on U. S. Highway No. 6 at the present time?

A. Yes.

Q. Have you ever refused to render any service on No. 6?
A. No.
Q. What method do you use to keep in touch with your various terminals?
A. We have a teletype system we are working constantly during the day.
Q. Teletype service with your various terminals?
A. Yes.
Q. And, of course, you also use the telephone and other means of communication?
A. That is right, but it is mostly teletype between the terminals.
Q. Do you interline freight with other carriers?
A. Yes, very much.
Q. Do you interline freight with other carriers at Des [fol. 2221] Moines, Iowa?
A. Yes.
Q. At Omaha, Nebraska?
A. Yes.
Q. Chicago, Illinois?
A. Yes.
Q. At the Tri-Cities, Rock Island and Moline?
A. Yes.
Q. Do you interline freight at a number of points on your line with other carriers?
A. Yes.
Q. In addition to the freight that you now handle, are you in a position to haul more freight if it was tendered to you?
A. Yes.
Q. Do you solicit business?
A. Sure.
Q. And do you advertise for business?
A. Sure.
Q. Are you continuously and constantly seeking to haul more freight?
A. Yes.
Q. Have you ever refused to render any service to any account, to any of your customers on U. S. Highway No. 6?
A. No.
Q. I hand you what has been marked for identification [fol. 2222] Exhibit 35.

Exam. Carpenter: It may be so marked.

(The statement referred to was marked as "Intervenor's Exhibit No. 35, Witness Bos," for identification.)

By Mr. Robinson:

Q. Is that exhibit the balance sheet for the period ending March 31, 1952 and operating statement for the period ending March 31, 1952?

A. Yes.

Q. And was that prepared under your direction?

A. Yes.

Q. And was it taken from the books and records of your company?

A. Yes.

Q. Now, if additional equipment is necessary to serve the public, are you in a position, or do you have an opinion whether or not you are in a position financially to purchase additional equipment?

A. Yes, we will purchase it.

Q. And will you purchase additional equipment?

A. Yes.

Q. You mentioned you are now leasing certain units. Are those units on a long time basis, that is part of them, and part of them on a short term basis?

A. Both ways.

Q. Now, the employees that you mentioned, have they been under your employ a considerable period of time?

[fol. 2223] A. I have had some of them as high as twenty, twenty-two years. Some of them five, ten.

Q. If this application of the applicant is granted, do you have an opinion as to whether or not it would have an adverse effect on your business?

A. Yes.

Q. And what is your opinion?

A. Well, we have got, as I say, the first three months of this year, we have had enough shortage the past year. If we have any more it just won't be a good healthy condition, that is all.

Q. In other words, you feel you can not stand additional competition?

A. No.

Q. Do you make daily runs from Chicago to Des Moines?

A. Yes.

Q. And do you make daily runs from Des Moines to Omaha?

A. Yes.

Q. Do you make daily runs from Omaha to Des Moines?

A. Yes.

Q. Do you make daily runs from Des Moines to Chicago?

A. Yes.

Q. And do you make daily runs in addition to those you just mentioned that do not stop in Des Moines? That is between Chicago and Omaha?

[fol. 2224] A. That is right. We load meal, we have out of Fremont, Nebraska, and goes right on into Chicago.

Q. But you do have a certain run that makes various stops on Highway 6?

A. Yes.

Q. And you have certain runs that do not stop to make deliveries?

A. That is right.

Q. Are you the only carrier that operates between Chicago and Omaha on U. S. Highway No. 6?

A. No.

Q. And are there a number of other carriers that operate between these points on this highway?

A. Yes.

Q. And are they your competitors now?

A. Yes, very much.

Q. Have you had any complaint with reference to your service you are now rendering the public on U. S. Highway No. 6, either from Chicago, or Omaha, or intermediate points?

A. No, I have had no complaint.

Q. And if a complaint is registered, do you try to make that correction and improvement?

A. Yes, we do.

Q. And will you do so in the future?

A. Yes, sir.

Mr. Robinson: You may cross-examine.

[fol. 2225] Exam. Carpenter: Cross-examine.

Mr. Fowler: Mr. Examiner, I have a few questions I would like to ask Mr. Bos if I might do so. I might have asked him before.

Exam. Carpenter: Proceed.

By Mr. Fowler:

Q. As I understand it, Mr. Bos, you have authority to serve every one of these points on U. S. Highway 6?

A. Yes, from Davenport to Council Bluffs.

Q. And you do actually have over-the-road units operating over that highway daily?

A. Absolutely.

Q. And I believe you stated in addition to that you do have a peddle service twice or three times a week from Des Moines as far east as Newton?

A. Newton and Grinnell.

Q. East as far as Newton and Grinnell. Is that a regular established service?

A. That is right.

Q. Now, as I understand it, you don't serve St. Louis?

A. No.

Q. Or Kansas City?

A. No.

Q. Or the Twin Cities. Now, with respect to—I will withdraw that. Let me ask you whether or not you have had any call for service on L. T. L. shipments within the last [fol. 2226] six months to such points as Amana, Iowa?

A. No.

Q. Adair, Iowa?

A. No.

Q. Altoona you do serve direct on your own line by reason of this peddle operation?

A. That is right.

Q. Have you had any call for service you haven't performed on L. T. L. shipments to Anita?

A. We have trucks in Anita ourselves, our own peddle trucks that deliver there.

Q. What is that regularity?

A. It works out of Des Moines. That is all brought into Des Moines, and peddled out of Des Moines here.

Q. Is that a daily operation or a semi-weekly?

A. I think we run that about three times a week.

Q. And what towns now would that serve?

A. Well, we start at Redfield.

Q. You can refer to this Iowa map.

A. Well, that is all right. We peddle to a lot of towns out of Des Moines. We will stop in Redfield, sometimes leaves Des Moines. I could have my manager that works out of there would be better.

Q. Give us the information to your best ability.

A. Well, we serve a lot of them. Start at Redfield and [fol. 2227] go to Anita. You work to Perry, Madrid, Templeton, Manning, Coon Rapids, and just how they work that I don't know, but I know we service all of those towns out of Des Moines.

Q. I assume, perhaps, in that operation the only point located on U. S. Highway 6 is probably Anita?

A. That is right.

Q. So you do have at least twice a week and sometimes three times a week peddle service to Anita, Iowa?

A. That is right.

Q. Would that be true of shipments originating on your own System, or would it include interline?

A. We take interline freight.

Q. At Des Moines?

A. At Des Moines.

Q. Destined to those points?

A. That is right.

Q. Now, returning to my original question, I will ask you whether you had any call for service within the last six months which you have not performed on L. T. L. shipments to Atalissa, Iowa?

A. No, not to my knowledge.

Q. Now, I believe you said you do serve Atlantic with substantial periodicity, is that correct?

A. We have a truck in Atlantic every day. That is daily.

Q. Are you sufficiently familiar with the consignees or shippers there that you would know whether you had per- [fol. 2228] formed any transportation service for the local hardware dealers there or the wholesale grocer there?

A. That is right. We have daily shipments. We have a drayman there, Smiley and Wallace. They do our dray

work, and I have bills here, a copy of our load sheets with us. We can show just what shipments we have been delivering there.

Q. So you do have a daily service into Atlantic from Omaha as well as from Chicago?

A. That is right.

Q. As well as from other points on your System?

A. Yes.

Q. Including shipments originating on your System, as well as interline shipments from other carriers?

A. Yes, sir.

Q. Now, do you serve Audubon, Iowa?

A. Yes. No, Audubon, I think that is handled into Omaha and transferred out of Omaha.

Mr. Fowler: Is Audubon located on U. S. Highway 6?

Mr. Howland: No, it is on 71.

Mr. Fowler: I see. Off the record.

(Statements off the record.)

By Mr. Fowler:

Q. You do have authority to serve Audubon, Iowa?

A. Yes, but as a rule we bring that into Omaha and it is transferred out of Omaha. However, if we have a whole load going in there or a 10,000 pound shipment of that size, we deliver it direct.

[fol. 2229] Q. Then Audubon is served on a peddle operation out of Omaha two or three times a week on L. T. L., and on volume shipments, as the traffic requires it, is that correct?

A. Yes.

Q. And that would include shipments originating on your own System as well as interline shipments.

Mr. Nolan: I object to this as leading the direct examination of this witness.

By Mr. Fowler:

Q. Now, with respect to Brooklyn, Iowa, do you serve Brooklyn, Iowa?

A. Yes, we serve Brooklyn, Iowa.

Q. Do you have any peddle service into Brooklyn?

A. It varies. If they have a shipment we deliver it.

Q. Would you have, would you describe it as call and demand service?

A. That is right.

Q. Have you ever had a request for service on L. T. L. shipments to Brooklyn which you have not performed?

A. No. We have serviced Brooklyn for many years out of Omaha, meat and packing house products twice a week.

Q. And you are available for L. T. L. general commodity shipments if they are tendered to you?

Mr. Howland: Objected to as leading and suggestive.

By Mr. Fowler:

Q. What is the fact as to whether or not you would [fol. 2230] handle a shipment originating at Omaha destined to Brooklyn if it was tendered to you, an L. T. L. shipment?

A. Yes, we would handle it. We do.

Q. Do you serve Casey, Iowa, with any degree of frequency?

A. Yes.

Q. And do you have a peddle operation on that, or is that from the over-the-highway truck?

A. That is a peddle operation, comes into Des Moines and worked out of Des Moines.

Q. That is on this peddle service you described twice or three times a week?

A. Yes.

Q. How about Carson, Iowa? Have you ever had any request for L. T. L. service from Carson, Iowa, you have not performed?

A. No.

Q. Colfax, Iowa?

A. We have trucks three times a week in Colfax.

Q. Well, that is available on L. T. L. shipments?

A. And truckloads.

Q. And truckloads and available, is it available on shipments originating on your own System as well as interline shipments?

A. Yes.

Q. Have you ever had any request for service from the

small community at Coralville, Iowa, that you have not performed?

A. No.

[fol. 2231] Q. Do you serve Council Bluffs, Iowa?

A. Yes, sir.

Q. How frequently would you say you have transportation service available to the consignees and shippers of Council Bluffs?

A. Daily. We have from one to two trucks in Council Bluffs every day. That is daily.

Q. Now, with respect to Davenport, Iowa, do you serve Davenport?

A. Yes, sir.

Q. I believe you have terminal facilities at the Tri-Cities?

A. We work through the Dohrn Transfer.

Q. Now, what is the fact as to whether or not you conduct an operation from the Tri-City area to Omaha, Nebraska?

A. Yes, we haul. However, we don't have our own terminal there, but we could build a terminal there if the business is there for it, a tonnage there to be moved. We do haul a lot of tractors out of Moline to Newton and Grinnell on No. 6 Highway, and we also have quite a movement into St. Louis. We work into St. Louis through Dohrn Transfer at Rock Island. Then, we haul a lot of full loads in to the Western Grocer Company at Davenport.

Q. Now, have you ever had a call for L. T. L. service at the town of Dexter, Iowa, which you refused to perform?

A. No, not to my knowledge I have never.

Q. Dexter, would you catch Dexter on this peddle route [fol. 2232] you have just described?

A. I think so. That would be handled out of Des Moines.

Q. The next town I have reference to is Durant, Iowa, which is a small community over in the eastern part of Iowa. Have you ever had any call for a service on L. T. L. shipments to Durant you refused to perform?

A. I think Durrant is handled out of Cedar Rapids. We unload that in Cedar Rapids, and it is worked out of there. I think we have a peddle meat run, we serve Durant on a peddle meat run.

Q. But on ordinary merchandise shipments in small volume?

A. We would bring it to Cedar Rapids, and the intrastate carrier would take care of that. If it is a small shipment the intrastate carrier would take care of that, or if it is a full load, we will handle it ourselves, but I think that is how it is worked. I would have to look up our records. I think we have almost thirty days' records with us for the amount of bills, I think.

Q. Without prolonging this examination, let me ask you with respect to all of these smaller communities located on U. S. Highway 6, have you within the last six months had any calls for service on L. T. L. shipments of ordinary merchandise destined to merchants in these small towns that you have refused to handle?

A. No, handled by all of them. In fact we have our guides out, our solicitors soliciting the business.

[fol. 2233] Q. Now, let me ask you this question. Assume that there should be a partial curtailment, or an abandonment of the existing transportation service over U. S. Highway 6 for any reason, and assuming for the purposes of this question that a sufficient volume of freight was tendered to you to warrant the institution of the operation, are you willing to establish a daily service to all points which you are authorized to serve on U. S. Highway 6 providing a service on L. T. L. as well as volume shipments?

A. Yes.

Q. Now, with respect to traffic moving from Chicago to the Tri-Cities, to Des Moines, and to Omaha. First, let me ask you the name of the substantial carriers that are now performing the service between those points in competition with you.

A. We have Watson Bros., Des Moines Transportation, Iowa-Nebraska, Carstensen Freight Line. I think they run to the Tri-Cities and to Cedar Rapids.

Q. There are some others.

A. There are some others, but I can't think of them now.

Q. Now, for the purpose of this question, let me ask you if you understand the permanent authority which the Rock Island Motor Transit Company now holds is subject to key point restrictions applicable to the Tri-Cities and Des

Moines, which prohibits an all motor service from Chicago to Des Moines and from Chicago to Omaha. Were you aware of that?

[fol. 2234] A. Yes.

Q. Now, assume that that restriction was removed so that the Rock Island Motor Transit Company could conduct an all out motor truck service between Chicago to all points I have mentioned, to Omaha. Will you please tell us what in your opinion, if you have one and care to express it, what effect it would have on your business competitive-wise?

A. It would have a big effect on our business. It is bound to. We have enough competition there now. We are just about hanging on as it is. However, no one knows how much actually that would do until there would be an operation, but I know that we have got a lot of competition.

Q. Now, I believe, do you serve Cedar Rapids?

A. Yes.

Q. And do you afford a transportation service from Cedar Rapids to Omaha?

A. Yes.

Q. And do you serve Waterloo?

A. Yes.

Q. You serve Waterloo?

A. Yes.

Q. Do you have a terminal?

A. No, my brother has a terminal in Waterloo, and I work through him.

Q. But your company has the Cedar Rapids authority?

[fol. 2235] A. Yes, and so does Bos Freight Line. They have a terminal in Cedar Rapids. I work through the Cedar Rapids Transfer and Storage. They are our agent in Cedar Rapids.

Q. Let me ask you this question. Does the Bos Truck Lines have authority to serve Cedar Rapids and Omaha?

A. Yes.

Q. And do you conduct an operation between Cedar Rapids and Omaha?

A. Yes.

Q. Now, at which points, with respect to the Iowa terri-

tory, at which points is your interchange principally accomplished with other carriers?

A. With, it is at Marshalltown, Iowa, we have the Keeshin Motor Freight. We transfer with them. We transfer here in Des Moines. We also transfer in Cedar Rapids to different towns, not only on our own in that territory, and then we transfer again at Omaha. We bring freight in there for the whole State of Nebraska, and all of that goes to Omaha.

Q. Now, assuming that a shipment, fifty pound minimum shipment was tendered to the Bos Truck Lines for any small community located on Highway 6, which you do not reach in your regular peddle service, would you interline that with any other carrier serving U. S. Highway 6?

A. Yes.

Q. The Rock Island Motor Transit Company, or the Iowa-Nebraska?

[fol. 2236] A. Yes, we would.

Q. And what has been your practice with respect to those shipments?

A. We transfer with the Iowa-Nebraska. We transfer with any line that is giving service. If we can't have enough to make a load, make a peddle run ourselves, that is what we do, give it to the line. So do the Iowa-Nebraska. So do the Merchants. They give us, the reason we interchange.

Q. Take, for example, a carrier like Merchants and Watson and Brady, and the others, do they interline with you at Des Moines on traffic moving into these smaller communities that you serve on your peddle run?

A. Yes.

Q. Have you within the last six months, have you had any difficulty in disposing of an interline shipment destined to one of these smaller communities you don't handle on your regular peddle basis?

A. No, sir.

Q. And do you interline with the Rock Island Motor Transit Company?

A. Yes.

Q. And with the Iowa-Nebraska?

A. Yes.

Q. And with the Des Moines Transportation?

A. Yes.

[fol. 2237] Q. With Roberts Transfer?

A. Yes.

Mr. Fowler: That is all.

Exam. Carpenter: Cross-examine.

Cross-examination.

By Mr. Nolan:

Q. Mr. Bos, is it fair to say that your operation on Highway No. 6 are primarily volume shipments?

A. It is volume.

Q. And between the principal points such as between Chicago and Des Moines, Chicago and Omaha, Omaha and Des Moines?

A. It is at the present time. However, we take any shipment that is offered to us on our line out of Chicago, and we transfer it either out of Des Moines, or Cedar Rapids, or we transfer it out of Marshalltown.

Q. You will take a shipment, say, for instance, from Chicago say to Marengo, Iowa, and you will either bring that to Davenport for interline with some carrier making Marengo, or bring it to Des Moines and interline with some carrier making Marengo, isn't that what you do?

A. That is right, unless it is a ten thousand pound shipment, we handle it ourselves.

Q. Is it fair to say, Mr. Bos, your company will handle any sized shipment from terminal to terminal, and if it is destined to a small point and it is a small shipment, you will interline that at a terminal with a carrier who makes [fol. 2238] the destination point?

A. We cover a lot of it ourselves even to Des Moines. We run as far as Grinnell on a peddle truck. We run as far as Atlantic on a peddle truck, and as far as Coon Rapids in that territory, are on the equipment out of Des Moines, but it is all brought into Des Moines.

Q. Isn't it true, Mr. Bos, that these so-called peddle runs that you have out of Des Moines westbound and eastbound, that the regularity of that peddle service depends on the volume of freight you have? In other words you work,

send out a peddle truck when you get a load of freight to be peddled out in the territory where that truck goes?

A. No, we make them three times a week, three to four times a week the truck comes through Grinnell and comes to Marshalltown. It is always worked back and forth.

Q. Peddles every point on the highway available?

A. Mitchellville, Colfax, Newton, Kellogg, all of those towns to Grinnell.

Q. Do you have any freight bills showing that service?

A. Yes.

Q. During the past year's time?

A. Yes, I have the last thirty days.

Q. Do you have them here with you?

A. I have a copy of our load sheets.

Q. Will you produce those for inspection?

[fol. 2239] Mr. Robinson: We don't have the supporting data.

By Mr. Nolan:

Q. What do you mean by your "load sheets"?

A. That is what we handled on No. 6 or No. 30. No. 6 as a rule, out of Des Moines, into Des Moines, out of Omaha and into Omaha on No. 6.

Q. Does that show your operation from Des Moines to Grinnell, Iowa, and on to Marshalltown? Does that include any freight originating at Des Moines?

A. No, not freight originating at Des Moines. We don't haul within the State of Iowa.

Q. When did you quit doing that?

A. We still haul, we have a Truck Operator permit. We haul full loads. We haul Caterpillar "Cats" all over the whole State of Iowa, and Western Grocer Company over all of the State of Iowa for the Marshall Canning Company.

Q. These two or three points you say you handle two or three times a week out of Des Moines, any shipments destined east of Grinnell for delivery, originating on your System, would be interlined to some other carrier if it is a small shipment?

A. If it is small shipments, yes.

Q. For instance, are you familiar with the shipment the

other day that was destined for Grinnell, Iowa, you interlined with the Rock Island Motor Transit for delivery?

A. Probably was a hurry for it and we didn't have anything going that day and gave it to them.

[fol. 2240] Q. Your company has, ever since the Rock Island Motor Transit Company has been in business, interlined shipments either at the Tri-Cities, Cedar Rapids, or Des Moines, or some, Omaha or some other mutual terminal points, interlined shipments with the Rock Island Motor Transit Company for the Rock Island Motor Transit Company to deliver to destination, isn't that true?

A. I think the Rock Island Motor Transit Company gives us freight. We work back and forth I think.

Q. Now, you are familiar with the fact, are you not, that for many years the Rock Island Motor Transit Company operated as a motor carrier without restrictions within this territory?

A. I think so.

Q. Isn't that true?

A. Yes.

Q. And during that period of time I assume your business has grown like some of the other carriers, you have increased the volume of your business?

A. Yes.

Q. And you understand, do you not, that the proposal made here is simply the restoring of the prior rights of the Rock Island Motor Transit Company? Do you understand that to be the nature and extent of this hearing?

A. Yes.

Q. Now, you say you have had some loss in gross revenue during the first three months of this year. That is typical [fol. 2241] of the industry as a whole, is it not?

A. Yes.

Q. I mean your business isn't any different than it is in the industry?

A. Well, it is.

Q. May not be as bad as other carriers, may be worse than others?

A. That is right.

Q. But you do know, as a matter of common knowledge,

in the motor truck industry there has been a decline in volume and revenue?

A. That is right.

Q. During the past, since the first of the year, isn't that true, Mr. Bos?

A. Yes.

Q. You say you have interlined with the Rock Island Motor Transit Company for delivery to destinations along this route here particularly on the smaller shipments where it didn't warrant your company making delivery. What was the fact as to whether or not your relations with the Rock Island Motor Transit Company and your company have always been friendly, cordial and cooperative?

A. Yes.

Q. Now, you do a considerable volume of truck business, or truckload business, do you not, Mr. Bos?

A. It is mostly L. T. L. We used to have a truckload [fol. 2242] business but it has changed. The contract carriers have most of the truckload business.

Q. You haul a lot of special commodities like packing house products?

A. We haul packing house products.

Q. And dairy products?

A. Yes.

Q. And canned goods and grocery supplies?

A. That is right.

Q. And you haul also farm machinery?

A. Yes.

Q. Now, do I understand, Mr. Bos, that your company operates all of the various authorities set forth in your certificate here giving specialized types of service and the general commodity types of service as set forth in your certificate?

A. Yes.

Q. And that includes both interstate and intrastate operations. You have some Iowa intrastate authority?

A. That is right, in the whole State of Iowa.

Q. What did you say?

A. In the State of Iowa, like the Marshall Canning Company. They just have their plants, one at Mason City, one at Ottumwa, and one at Davenport.

Q. What I am talking about, you have certain regular route intrastate authority in Iowa, do you not?
[fol. 2243] A. No.

Mr. Robinson: They have a Truck Operator permit.

A. Truck Operator only.

By Mr. Nolan:

Q. You don't have any regular route authority?
A. No. That is my brother. He runs to Des Moines, Waterloo and Cedar Rapids.
Q. Then, as I understand your testimony, Mr. Bos, that although you have authority to operate on Highway No. 6 between Chicago and Omaha, Nebraska, you do not purport to serve any points regularly east of Grinnell, Iowa, or west of Atlantic, Iowa, except on volume shipments directly?
A. If the tonnage will support it, we will give daily service.
Q. I said on volume or substantial tonnage shipments.
A. Oh, no, we will accept any kind of a shipment from fifty pounds on up.
Q. You mean you will handle it, but interline it with some one else?
A. We will interline it or deliver direct. It depends on the volume.
Q. I say you do not hold out to serve the points east of Grinnell or west of Atlantic on U. S. Highway No. 6 unless there is a sufficient tonnage or volume to warrant the operation of the truck into that particular point?
A. At the present time.
Q. And isn't that true, Mr. Bos, the practice of your [fol. 2244] company over the past twenty years?
A. No, we service all of the towns on No. 30 and No. 6. That isn't true on No. 30, we don't service through the night.
Q. That is where you have a volume shipment?
A. No, L. T. L. shipment, a truckload, a five or ten thousand pound shipment.
Q. On a five or ten thousand pound shipment and truckload?
A. On L. T. L., any sized shipment they have.

Q. Now, I thought you just told me, Mr. Bos——

A. We handle it. We transfer it. If we have got enough volume, we deliver direct.

Q. That is right. In other words, on a small shipment to a point east of Grinnell or a point west of Atlantic on U. S. Highway No. 6, you will interline that with some carrier making those destination points, isn't that true, on a small shipment?

A. At the present time we are, and we are hauling it from Chicago. If it goes beyond, we deliver Atlantic direct. If it is beyond there, we deliver it to Omaha. We give it to Roberts Transfer, and they deliver.

Q. Maybe give it to the Rock Island Motor Transit Company?

A. Maybe we give it to them.

Q. If it is a volume shipment or truckload shipment, you will deliver it direct?

A. That is correct.

[fol. 2245] Q. To any point?

A. To any point, all full loads direct.

Mr. Nolan: That is all.

Exam. Carpenter: Mr. Howland.

By Mr. Howland:

Q. Mr. Bos, there is a concern known as the Bos Truck Lines, of which you are President?

A. That is correct.

Q. There is a concern known as Bos Freight Lines?

A. Yes.

Mr. Howland: And those are separate and distinct organizations.

Mr. Robinson: Mr. Howland, maybe we better get the record straight. It is Bos Truck Lines, Incorporated, and Bos Freight Lines, Incorporated.

Mr. Howland: All right.

By Mr. Howland:

Q. Bos Freight Lines is operated by a brother of yours?

A. Yes.

Q. And the businesses are separate and distinct?

A. Yes.

Q. Separate corporations are they?

A. Yes.

Q. Do you know about what the situation has been with respect to the gross revenues of your company during the period say from the end of the war up through the year [fol. 2246] 1951? Has that business shown an increase each year?

A. Yes.

Q. And about what has been, percentage-wise what has that increase been?

A. I wouldn't know. I would have to look my records over.

Q. Is it fair to say your business, your 1951 gross business was two to two and one-half or three times what your business was in 1945?

A. Oh, no, not that much.

Q. Not that much. It would be twice, would it?

A. No. Maybe one hundred thirty, one hundred forty, one hundred fifty thousand more than the previous year. I can not give you the exact figure on it but I do have the records at home.

Q. Well, now, are you familiar with the tonnage handled by your company in the year 1950?

A. Yes.

Q. Would it be correct, approximately 63,300 tons handled that year?

A. I couldn't say. That is approximate. It is in the neighborhood, but I would have to look it up, to refresh my memory. I haven't looked that up.

Q. But it is true until the year 1952 at least, you have shown an increase each year since the end of the war?

A. Yes.

[fol. 2247] Q. How many employees do you have in your terminal in Des Moines all told?

A. We have about fifteen or twenty.

Q. And in Marshalltown, of course, is the center of your operations, that is right, isn't it?

A. I imagine we have, to do labor or office work—do you want just drivers?

Q. No, the total number of your employees.

A. It runs a little over one hundred. It varies.

Q. I understand that. I wanted to get the breakdown. You say fifteen to twenty in Des Moines?

A. That is right.

Q. How many in Marshalltown?

A. I just could not say. I don't know. It is hard to figure it out. We have Omaha drivers or Chicago drivers. We have trucks that go from Chicago to Clinton. They go back every night. We have drivers from there that go to Carroll every night, go to Des Moines every night, and drivers from Marshalltown, go to Clinton and back every night. This labor situation we have had in February, we are trying to stop layovers and call time, and all lines get that, and I don't know where I am at since February.

Q. Can you give us any breakdown on the location of these one hundred employees, at what points they are located?

A. No. I can get the record in a matter of minutes. All I [fol. 2248] have to do is call the office up and I can get it exactly. It would only be a guess.

Q. You don't recall now as to that?

A. No.

Q. Now, your estimate of fifteen or twenty people in Des Moines would include the drivers of trucks in from both directions?

A. Yes. We have over-the-road drivers start right here. I think we have four or five over-the-road drivers, and I think we have the peddle drivers, and also have the dockmen, etc.

Q. Well, you have a terminal agent in Des Moines?

A. Yes, Mr. Hayes, Ross Hayes.

Q. How many dockmen do you normally have in Des Moines?

A. We have sixteen. However, our dockmen take our city deliveries, too.

Q. They work on the dock?

A. And also deliver. We have one foreman, takes care of the dock, and they load up such loads and go out delivering. I think that is the system they have.

Q. Now, you don't do any business to or from Kansas City or the Twin Cities, as I understand it?

A. No. The Bos Freight handles that. Well, I will take it back. We do haul business for the Bos Freight Lines out of Minneapolis into Omaha. They bring it to us in Marshalltown.

Q. That is an interline proposition?

A. That is an interline proposition. They also bring [fol. 2249] stuff from Kansas City to Carroll and Newton and different places that we serve.

Q. Well, I am referring about your having local shipments on your line originate at those points.

A. No.

Q. You interline with any carrier as well as your brother, your brother's company. You probably have a closer relationship with your brother's company than most of the other carriers you interline with.

A. Not exactly. It don't work that way.

Mr. Robinson: Well, they are brothers any way.

By Mr. Howland:

Q. In any event you interline with the Bos Freight Lines?

A. I even started him up about twenty years ago.

Mr. Howland: I think that is all.

Redirect examination.

By Mr. Robinson:

Q. Mr. Bos, the business of the Bos Freight Lines, Incorporated, is primarily north and south, is it not?

A. Yes.

Q. And that company has authority to transport general commodities?

A. Yes.

Q. Between Kansas City and Minneapolis via Des Moines?

A. Yes.

Q. Serving the intermediate points located on primary [fol. 2250] U. S. Highway No. 69?

A. Yes.

Q. And in your operation, as far as the general commodity operation, is primarily east and west, between Chicago and Omaha and certain other points in Nebraska?

A. Yes.

Q. In addition to your authority to haul general commodities which is shown by your exhibit, you have authority to transport a number of special commodities?

A. Yes.

Q. Now, since 1945, which has been mentioned in cross-examination, or since the war, you have extended your business by procuring a number of additional certificates?

A. Yes.

Q. As shown by your exhibit. These were in 1948 and the various years as shown in the exhibit?

A. Yes.

Q. And isn't it true that to a large extent accounts for any increase or growth of your business?

A. Yes.

Q. Now, you were asked, you testified on cross-examination that there has been a change in the nature of your business due to the fact the contract carriers now are taking the truckload business, and you are by that very nature of things, changing the nature of your business to less truckload lots?

[fol. 2251] A. That is right. The steel transportation, the Midwest Transportation, they have practically got all of the loads there. Their rates is under ten or fifteen per cent.

By Exam. Carpenter:

Q. Ten to fifteen per cent?

A. The rates are cheaper than ours.

By Mr. Robinson:

Q. The less truck business is growing and developing constantly?

A. Yes.

Mr. Robinson: That is all.

Exam. Carpenter: Any recross?
Mr. Nolan: Just a minute.

Recross-examination.

By Mr. Nolan:

Q. Mr. Bos, the dates appearing on your Exhibit No. 34, for instance, the date of February 17, 1948——

Mr. Robinson: I may shorten your questions on that. The primary certificate, of course, wasn't first issued on February 17, 1948. That is a recopy of certain other certificates, but the dates as shown for Sub. 24, etc., are the actual dates those certificates were issued, but the master certificate was first issued prior to February 17, 1948.

Mr. Nolan: This is off the record.

Exam. Carpenter: Off the record.

(Discussion off the record.)

Mr. Robinson: We offer in evidence as a part of the examination of this witness——

[fol. 2252] Exam. Carpenter: Have you finished?

Mr. Nolan: No, I wanted to clarify the record there.

By Mr. Nolan:

Q. As I understand it, Mr. Bos, that you have been in the motor carrier business for some twenty-five or more years?

A. Twenty-eight years.

Q. And you did possess and operate for many years the authority as shown on this Certificate, Exhibit No. 34, prior to the issuance of Sub. No. 24, before the date appearing on the certificate of February 17, 1948.

Mr. Robinson: Read the question.

(Question read.)

Mr. Robinson: That question can not be answered by "yes" or "no" in its present form.

By Mr. Nolan:

Q. What I am getting at, Mr. Bos, is the date appearing on your certificate as February 17, 1948, doesn't mean that you started to operate the authority possessed by you contained in your certificate as of that date.

A. Oh, we operated since 1935 on general commodities.

Q. That is right.

A. And prior to that, we have always, all general commodities.

Q. So, then, the date appearing here of February 17, 1948, has no relation to when your company started operating as a motor carrier of freight under your certificate. That is the point I am trying to get at.

[fol. 2253] Mr. Robinson: That is true.

By Mr. Nolan:

Q. Is that right?

Exam. Carpenter: The answer is "yes".

A. Yes.

Mr. Nolan: That is all.

Exam. Carpenter: You are excused, Mr. Bos.

(Witness excused.)

OFFERS IN EVIDENCE

Mr. Robinson: We offer in evidence as a part of the testimony of this witness Exhibits 34 and 35.

Exam. Carpenter: Any objection? (No response.) The documents marked for identification as Exhibits Nos. 34 and 35 are received in evidence.

(Intervenor's Exhibits Nos. 34 and 35, Witness Bos, were received in evidence.)

Exam. Carpenter: We will recess for lunch until 2:00 o'clock.

(Whereupon at 12:15 p. m. a recess was taken until 2:00 p. m. of the same day.)

AFTERNOON SESSION

2:00 p. m.

Exam. Carpenter: You may proceed.
Mr. Fowler: Mr. Hobbs, you may be sworn.

A. W. HOBBS was sworn and testified as follows:

Direct examination.

By Mr. Fowler:

Q. Will you announce your name, please?
[fol. 2254] A. A. W. Hobbs, H-o-b-b-s.
Q. And your residence?
A. 3105 45th, Des Moines, Iowa.
Q. And with what organization are you connected?
A. The Des Moines Transportation Company, Inc.
Q. And where are its headquarters located?
A. Des Moines, Iowa.
Q. And in what business is it engaged?
A. Motor carrier.
Q. And in what capacity are you associated with the company?
A. I am Vice President of Operations.
Q. And how long have you been connected with the company?
A. '32, 1932.
Q. And do you have direct and detailed charge of the operations of the company?
A. Yes.
Q. I will ask at this time to have the certificate of public convenience and necessity, MC-53980 marked for identification.

Exam. Carpenter: Marked for identification as Exhibit No. 36.

(The statement referred to was marked as "Intervenor's Exhibit No. 36, Witness Hobbs," for identification.)

By Mr. Fowler:

Q. Directing your attention now to the document which has just been marked as Exhibit 36, I will ask you whether

or not that is a copy of the certificate which you presently [fol. 2255] hold?

A. It is.

Q. And its number is MC-53980?

A. That is right.

Exam. Carpenter: The document identified as Exhibit No. 36 consists of six pages.

By Mr. Fowler:

Q. Six pages. Now, approximately how many tractor-trailer units does your company presently operate?

A. Approximately three hundred.

Q. And at what points do you presently maintain terminal facilities?

A. Des Moines, Omaha, Mason City, Twin Cities, St. Paul, Chicago, Illinois.

Q. Do you have a terminal setup at the Tri-Cities?

A. Davenport, Iowa.

Q. Before we get directly to the Highway 6 operations, is it a fact that you presently conduct a daily service between Chicago, the Tri-Cities, Des Moines, and Omaha?

A. Yes.

Q. In both directions?

A. That is right.

Q. And with respect to the Twin Cities—Des Moines, do you conduct a daily operation between those two points?

A. Yes.

Q. Do you have interline arrangements at Des Moines [fol. 2256] with respect to shipments destined to Kansas City or St. Louis originating at the Twin Cities?

A. Yes.

Q. And are you at the present time handling any substantial volume of traffic of that kind?

A. Yes, we are.

Q. And with what carriers do you interline at Des Moines for Kansas City?

A. The principal carrier is Knaus.

Q. Is that the Knaus Freight Lines?

A. The Knaus Freight Lines.

Q. And with respect to St. Louis, Missouri?

A. We use various carriers there, some of it routed one way and some of it another. I don't believe there is any set carrier.

Q. In other words, you interline with all carriers?

A. That is right.

Q. At all of your terminals, I believe, you interline with other carriers?

A. That is right.

Q. Now, with respect to points on U. S. Highway 6, as I understand it from your certificate, Exhibit 36, you are presently authorized to serve the points of Davenport, Bettendorf, Iowa City, Marengo, Grinnell, Kellogg, Newton, Des Moines, Adel, Atlantic, and Council Bluffs, Iowa?

A. That is right.

[fol. 2257] Q. Now, I believe you have just testified you do have a terminal at Davenport, and of your own?

A. No, it is the Roederer Transfer & Storage, does our work there.

Q. You have a setup?

A. Yes.

Q. And that would be true as to Bettendorf traffic?

A. They handle the Tri-City area, yes.

Q. At Iowa City you have a Commission agent?

A. That is right.

Q. And his name?

A. Maher Brothers.

Q. And what distribution facilities do you have at Marengo?

A. No, we deliver there direct.

Q. From your highway trucks?

A. Road equipment.

Q. And what is the situation at Grinnell?

A. Pasch Transfer.

Q. Is that the gentleman who testified this morning?

A. That is right.

Q. And at Kellogg what arrangement?

A. Direct from our road equipment.

Q. And at Newton?

A. Merchants Transfer Company.

Q. That is a local cartage agent?

[fol. 2258] A. That is right.

Q. And at Des Moines, of course, you have your own terminal?

A. Yes.

Q. And at Atlantic what arrangements do you have?

A. Smiley Transfer.

Q. That is a local cartage that acts as your agent?

A. That is right.

Q. And at Council Bluffs I presume that is handled out of your own Omaha terminal?

A. That is handled out of the Omaha terminal.

Q. Now, referring again to your Exhibit No. 36, directing your attention to Exhibit No. 36 and particularly to the fourth page thereof, and to the authority which is described in the center of the page, reading as follows:

"Service is authorized to and from intermediate and off-route points in Greene, Carroll, Audubon, and Guthrie Counties, Iowa, not including the points of Jefferson, Guthrie Center, Manning, Lanesboro, and Panora."

Now, I would like to ask you whether, relating that authority to an actual map, whether you have authority to serve the following points:

Dexter, Stuart, Menlo and Casey, which are all located on Highway 6.

Mr. Howland: Just a minute. If there is that authority, is it not included in the certificate, Mr. Fowler?

[fol. 2259] Mr. Fowler: It is described as an area in the certificate authority without naming the points, Mr. Howland.

A. Sub. 9.

Mr. Howland: Dexter is not in Guthrie County. That is Dallas.

Mr. Fowler: If you will look at the fourth sheet, Mr. Howland, to the fourth sheet of Exhibit 36, just before the last section, it says, "General Commodities, Greene, Carroll, Audubon and Guthrie Counties, not including the points of Jefferson, Guthrie Center, Manning, Lanesboro, and Panora."

Mr. Howland: But Dexter is in Dallas County.

Exam. Carpenter: That is on Sheet 5, too, is it not?

Mr. Howland: That is on Sheet 5, the part Mr. Fowler was referring to. I desire to object because the question calls for the interpretation of the certificate of the Commission. Therefore, it calls for a mere opinion and conclusion as to the construction of the certificate itself.

Mr. Fowler: Well, I am willing to concede, Mr. Examiner, the certificate is the best evidence, and all these questions are intended to do is to develop the illustrative features of it, and if it is true that Dexter is not authorized to be served, we are mistaken.

Mr. Howland: What were the towns that were included in your question?

Mr. Fowler: We are under the opinion that under the authority just referred to, we would have authority to serve [fol. 2260] the following points situated on Highway 6: Dexter, Stuart, Menlo and Casey, which are located on Highway 6 in the southern part of Guthrie County. Well, apparently Dexter is in Dallas County, and the other points are within our authority.

By Mr. Fowler:

Q. As I interpret the certificate, that is irregular route authority?

A. That is right.

Q. Do you at the present time perform any regularly scheduled service to those points?

A. No.

Q. Has there been any demand made upon you for any service to those points?

A. Not to my knowledge.

Q. And if it should develop there is traffic for those points, are you willing to serve them within the scope of your authority?

A. Yes.

Q. Now, with respect to the actual operations over the highway, how frequently do you have over here trucks moving from Chicago through the Tri-Cities, through Des Moines, to Omaha, daily in a westerly direction?

A. We operate, it would be from Omaha to Chicago?

Q. No, from Chicago to Omaha.

A. From Chicago to Omaha, we operate trucks daily from Chicago to Omaha. There might be only one truck, [fol. 2261] or there might be more. It would depend on the tonnage.

Q. From Chicago to Des Moines?

A. We operate several trucks.

Q. From Chicago to the Tri-Cities?

A. Unless it is straight load traffic, the Tri-City freight would be loaded on a truck that its destination would be west of the Tri-Cities, Des Moines, or somewhere else.

Q. With respect to the eastbound movement from Omaha to Chicago, do you have a daily operation?

A. Yes, we do.

Q. From terminal to terminal, and a daily operation from Des Moines to Chicago eastbound?

A. That is right.

Q. And would that same unit service the Tri-City area on its eastbound operations except for truckload traffic?

A. We would load eastbound traffic, maybe, on several trucks. It could be, it could be one or several, depending on the availability of the truck and the trailer.

Q. Now, with respect to an L. T. L. shipment originating at Chicago, or delivered to you by another carrier at Chicago, destined to Iowa City, how would that be handled?

A. That would be loaded on a truck, on a road truck, and delivered to Maher Brothers at Iowa City.

Q. And is that a daily operation?

A. If the freight, yes, it would be.

[fol. 2262] Q. Now, with respect to a similar shipment——

Exam. Carpenter: Pardon me. Read the answer.

(Answer read.)

By Mr. Fowler:

Q. Is it a daily operation?

A. If there is freight to move to that point.

Q. You mean by that, if you have a shipment to deliver at Iowa City, it is a daily service?

A. That is right.

Q. Now, take the same type of a shipment originating at Chicago, or delivered to you by another carrier at Chicago, destined to Marengo. What is the physical handling of such a shipment?

A. That would be loaded on a road truck at Chicago, and delivered direct to the customer at Marengo.

Q. A similar shipment destined to Grinnell?

A. Would be delivered to Pasch Transfer at Grinnell for delivery.

Q. A similar shipment to Kellogg?

A. Would be delivered direct from the road trailer.

Q. A similar shipment to Newton?

A. Would be delivered to Merchants Transfer.

Q. A similar shipment to Atlantic?

A. It would be delivered to the Smiley Transfer Company.

Q. A similar shipment to Council Bluffs, Iowa?

A. That would be delivered out of our Omaha terminal.

Q. Now, do you originate traffic at Omaha, including any [fol. 2263] interchange traffic given to you at Omaha, destined to the points I have just referred to?

A. Yes.

Q. Is it a reasonably substantial volume of that traffic moving from Omaha eastbound?

A. We are not handling a substantial amount of traffic to a lot of those points.

Q. If a shipment was tendered to you at Omaha on any day destined to any of the points you serve on Highway 6, would you accept the shipment and handle it?

A. Yes.

Q. And would it make any difference whether it was a minimum or volume shipment to you?

A. No, it does not.

Q. Now, the physical operation of a shipment tendered to you at Omaha for delivery at Atlantic, how would that be handled?

A. It would be loaded on a truck at Omaha and delivered to Smiley at Atlantic, for delivery to the customer.

Q. Des Moines?

A. We would deliver that out of our terminal.

Q. Newton?

A. Merchants Transfer & Storage.

Q. Then, the disposition of it at these various points would be the same as you indicated with respect to the previous question?

A. Yes.

[fol. 2264] Q. Now, what is the fact as to whether or not traffic is tendered to you from other carriers at Des Moines for transportation and delivery to the points on U. S. Highway 6 that you are authorized to serve?

A. We would accept those shipments for delivery.

Q. Do you have such traffic tendered to you now?

A. Yes.

Q. From other carriers, and do you handle it?

A. Yes.

Q. Now, do you furnish any type of local, or sometimes referred to as peddle service, to points located on U. S. Highway 6, which you are authorized to serve between Des Moines and Davenport?

A. We operate a truck that peddles between here and the Davenport terminal.

Q. And when you use the term "here", you mean Des Moines?

A. Des Moines and Davenport.

Q. Is that a daily operation?

A. I believe so, yes.

Q. Do you accept and handle in that service shipments ranging from minimum to volume shipments?

A. Yes.

Q. And will you accept any shipment tendered to you, either by the original shipper or interlined at any of your interline points, destined to any of these points?

[fol. 2265] A. Yes.

Q. What sort of a record do you make in the nature of a manifest with respect to the traffic which is loaded on this local or peddle truck we have just been talking about?

A. We make up a manifest which shows the Pro Number, shipper, destination, weight, Trailer Number, date, driver's name.

Q. Have you at my request selected from your records manifests for the months of January and February, 1951, and for the similar period in 1952 for the purpose of devel-

oping the representative type of shipments you handle in that operation?

A. Yes, I have.

Q. Is that a turn-around operation? I mean by that, the truck originates at Des Moines, peddles to the points you are authorized to serve on U. S. Highway 6, to Davenport, and then does it return from Davenport to Des Moines?

A. Not always. Sometimes it is used to go to Chicago, and to run to Peoria. That might not necessarily be its destination. A portion of that freight could be destined to Chicago or beyond.

Mr. Fowler: This is off the record.

Exam. Carpenter: Off the record.

(Discussion off the record.)

Mr. Fowler: You can go back on the record.

Exam. Carpenter: Back on the record.

By Mr. Fowler:

Q. Mr. Hobbs, I am now handing you the manifest sheets [fol. 2266] which you have just described, and I will ask you at random to pick out two of the manifest sheets for the month of January, 1951, two for the month of February, 1951, two for the month of January, 1952, and two for the month of February, 1952, at random.

Exam. Carpenter: Off the record.

(Discussion off the record.)

Mr. Fowler: Now, responsive to my request, Mr. Hobbs, you have selected four of these sheets at random from the manifests which we have been talking about, and the other manifest sheets I am now handing to counsel for the applicant for examination. I would like to have the four manifest sheets marked for identification.

Exam. Carpenter: Off the record.

(Discussion off the record.)

Mr. Fowler: I will now ask the reporter to mark for identification a manifest sheet bearing the heading "Des

Moines Transportation Company, from Chicago, Illinois, to Des Moines, Iowa, date, January 9, 1951."

Exam. Carpenter: That may be identified as Exhibit No. 37.

(The manifest sheet referred to was marked as "Intervenor's Exhibit No. 37, Witness Hobbs," for identification.)

Mr. Fowler: I will now ask the reporter to mark for identification as Exhibit No. 38 the sheet bearing the heading "Des Moines Transportation, Chicago to Des Moines, January 3, 1951."

[fol. 2267] Exam. Carpenter: It may be so marked.

(The manifest sheet referred to was marked as "Intervenor's Exhibit No. 38, Witness Hobbs," for identification.)

Mr. Fowler: I will ask the reporter to identify as Exhibit 39 a similar manifest sheet bearing date, January 24, 1952.

Exam. Carpenter: It may be so marked.

(The manifest sheet referred to was marked as "Intervenor's Exhibit No. 39, Witness Hobbs," for identification.)

Mr. Fowler: Also I will ask that a similar manifest sheet bearing date of February 21, 1952, be marked for identification as Exhibit 40.

Exam. Carpenter: It may be so marked.

(The manifest sheet referred to was marked as "Intervenor's Exhibit No. 40, Witness Hobbs," for identification.)

Mr. Howland: Is that Chicago to Des Moines?

Mr. Fowler: This is headed, "Chicago to Davenport."

By Mr. Fowler:

Q. Now, I call your attention to the manifest sheets which have just been identified as Exhibits 37, 38, 39 and 40, and ask you to state whether or not those are typical of the type of shipments which are handled by your company from Chicago to points located on U. S. Highway 6 which you are authorized to serve.

A. Yes, they are.

Q. Now, I observe, referring to Exhibit 37, a column [fol. 2268] "Freight Bill Number", which I assume is your freight bill number?

A. It is our Pro Number.

Q. Yes, and under a column "Shipper", that is the original shipper?

A. That is right.

Q. And under the column "Consignee", that is what it means?

A. That is right.

Q. And "Destination" is what it means?

A. That is right.

Q. And the "Number of Pieces" and the "Weight"?

A. That is right.

Q. Now, are these shipments all shipments which originated on your line, or does it include shipments which were interlined to you at Chicago?

A. That includes shipments of all types, interlined or originated by our own line.

Q. Now, I notice in glancing at these exhibits that there are numerous shipments which are under five hundred pounds. Is it your practice to accept these small L. T. L. shipments for delivery at the points which you are authorized to serve?

A. It is. As a matter of fact our shipments, eighty-one per cent of the total of them average less than six hundred pounds.

Mr. Fowler: Read that.

(Answer read.)

A. That is less than truckload traffic.

[fol. 2269] Mr. Fowler: I will now tender to counsel the original documents, Exhibits 37, 38, 39 and 40, and I intend to offer them in evidence, and if they are received, I am going to ask permission to withdraw them and have photostats made of them.

Exam. Carpenter: How long will it take to get the photostats made?

Mr. Fowler: I think we can get them made before this hearing adjourns. I am sure we can.

Exam. Carpenter: This is off the record.

(Discussion off the record.)

By Mr. Fowler:

Q. Do you have with you similar original manifests referring to shipments handled by your company?

A. Between Des Moines and the Davenport terminal.

Q. And are those shipments on this so-called local or peddle truck, or are they handled on the highway?

A. They are handled on the highway truck but it peddles going across there.

Q. In other words, it is a truck moving from Des Moines eastward which peddles on the return trip?

A. That is right.

Mr. Fowler: Will you take those manifests and select four or five for the year 1951 and four or five for the year 1952 at random?

Exam. Carpenter: Still off the record.

[fol. 2270] (Discussion off the record.)

Exam. Carpenter: Back on the record.

By Mr. Fowler:

Q. In answer to the last question you used the term "peddle". Do you mean by that this truck performs a peddle service from Des Moines to points you are authorized to serve on U. S. Highway 6?

A. That is right.

Q. Have you now selected for me four of these manifest sheets, which you selected at random, from the records which we have just been talking about?

A. Yes.

Mr. Fowler: I am now handing the balance of these manifest sheets to counsel for the applicant for their inspection. I would like to have permission to have the reporter identify as Exhibit 41 the manifest sheet bearing the heading "Des Moines Transportation Company, from Des Moines to Davenport, January 10, 1951"; and as Exhibit 42 a

similar manifest sheet for the date, January 4, 1951; and as Exhibit 43 a similar manifest sheet bearing date February 3, 1952; and as Exhibit 44 a similar manifest sheet bearing date, February 19, 1952.

Exam. Carpenter: They may be marked accordingly.

(The manifest sheets referred to were marked as Intervenor's Exhibits Nos. 41, 42, 43 and 44, Witness Hobbs, for identification.)

By Mr. Fowler:

Q. Will you examine the documents which have now [fol. 2271] been identified as Exhibits 41, 42, 43 and 44 and tell me what they are?

A. Exhibit 41 is a manifest which moved freight to Davenport and Moline, Illinois.

Q. From where?

A. Des Moines.

Q. Now, does that include freight originating at Des Moines as well as freight tendered to you from other carriers at Des Moines?

A. We could not handle any freight of this type between Des Moines and Davenport because it would be an intrastate operation, because it would have to come from somewhere outside of the State, or go beyond the eastern border.

Q. So with respect to those exhibits which you are now examining, it would all relate to interstate traffic?

A. That is right.

Q. Which, of course, necessarily could originate at any point within the State?

A. That is right.

Q. Are those manifests typical of the operation which you have conducted in that territory in 1951 and 1952?

A. Well, these are typical of shipments moving to Davenport, that is right.

Q. Now, Mr. Hobbs, have you brought with you any other original manifest sheets that will display a typical opera- [fol. 2272] tion you conducted in 1951 and 1952 which might be helpful to this record?

A. There are supposed to be a package of manifests showing an operation on Highway 6 between Des Moines

and the river showing the peddle operation to Kellogg, Newton, Grinnell and Iowa City.

(Discussion off the record.)

By Mr. Fowler:

Q. Mr. Hobbs, will you select for me from the manifest records which you brought along with you four manifest sheets showing typical service to the points which you are authorized to serve on U. S. Highway 6?

Mr. Fowler: I now ask permission to have identified as Exhibit 45 a manifest sheet bearing the heading "Des Moines Transportation Company, Des Moines to Marengo, February 5, 1951."

Exam. Carpenter: It may be so identified.

(The manifest sheet referred to was marked as "Intervenor's Exhibit No. 45, Witness Hobbs," for identification.)

Mr. Fowler: And as Exhibit 46 a similar manifest sheet bearing date of February 1, 1951.

Exam. Carpenter: It may be so identified.

(The manifest sheet referred to was marked as "Intervenor's Exhibit No. 46, Witness Hobbs, for idetnification.)

Mr. Howland: Des Moines to Marengo?

Mr. Fowler: Des Moines to Kellogg, this one. And a similar sheet bearing date January 27, 1952, bearing the heading "Des Moines to Chicago Peddle."

[fol. 2273]] Exam. Carpenter: It may be so identified.

(The manifest sheet referred to was marked as "Intervenor's Exhibit No. 47, Witness Hobbs," for identification.)

Mr. Fowler: And as Exhibit 48 a similar manifest sheet bearing date February 5, 1952, marked "Des Moines to Chicago Peddle."

Exam. Carpenter: It may be so identified.

(The manifest sheet referred to was marked as "Intervenor's Exhibit No. 48, Witness Hobbs," for identification.)

By Mr. Fowler:

Q. I now direct your attention to the manifest sheets which have been marked for identification as Exhibits 45, 46, 47 and 48, and ask you to state to which operation of yours those manifest sheets relate.

A. They are manifests on a truck that moved east on Highway 6 that had deliveries to the towns of Kellogg and Marengo.

By Exam. Carpenter:

Q. Moved east from where?

A. Des Moines, from Des Moines east.

By Mr. Fowler:

Q. If I have not already covered this before, and perhaps I had, you do perform a daily service on L. T. L. or volume shipments from Chicago to all points on U. S. Highway 6 which you are authorized to serve, and from Omaha to all points that you are authorized to serve?

A. That is right.

Q. And any interstate traffic that is tendered to you at any point on your system for delivery to destination at any of these points?

[fol. 2274] A. That is right.

Mr. Fowler: Now, off the record again, please.

Exam. Carpenter: Off the record.

(Discussion off the record.)

Mr. Fowler: All right, back on the record.

Exam. Carpenter: Back on the record.

By Mr. Fowler:

Q. Mr. Hobbs, your pick-up and delivery service at Newton, Iowa, is performed by the Merchants Transfer Company of Newton?

A. That is right.

Q. Just a minute, and at Grinnell by the Pasch, P-a-s-c-h, Transfer?

A. That is right.

Q. And at Iowa City by Maher Brothers?

A. That is right.

Q. And at Atlantic by the Smiley Transfer and Storage?

A. That is right.

Q. Do you have here in the hearing room—I will withdraw that. What type of reports do you receive from these commission agents in the usual course of business with respect to the shipments they handle for you?

A. They aren't uniform. We settle on a statement, a monthly basis.

Q. And will those reports which you receive regularly [fol. 2275] in the usual course of business from these commission agents show the type and volume of shipments into these places?

A. It will show the date, the Pro Number, and the weight.

Q. Will you refer to those documents merely for the purpose of refreshing your recollection and tell me, if you can, from your own personal knowledge the general character of the shipments which were handled by these commission agents for your company at these points during the years of 1951 and 1952?

A. The first, Merchants Transfer and Storage at Newton, for the month of January, 1952, they handled 199 minimum shipments, 260,000 pounds of less truckload traffic; 202,000 pounds of truckload inbound.

Q. Now, take another typical one.

A. Well, let's finish this one. Outbound at Newton that month, 118, pardon me, 11,800 pounds of less truckload traffic and 86,000 pounds of truckload.

By Mr. Nolan:

Q. Where's that at?

A. Newton.

Mr. Fowler: Take another month at Newton, if you will.

A. How about 1952 or the next year?

Mr. Fowler: Pick out another.

A. 1951, January 51, 28 minimum shipments. 283,000

pounds of less truckload traffic; 785,000 pounds of truckload traffic.

By Mr. Fowler:

Q. Was that inbound?

A. Inbound, and the outbound, 12 minimum shipments. [fol. 2276] 33,000 pounds of less truckload traffic and 200,000 pounds of truckload traffic.

Q. Now, will you take the next point and give us the same type of information for that point.

A. Off the record.

(Discussion off the record.)

By Mr. Fowler:

Q. What point are you now reviewing?

A. Pasch at Grinnell.

Q. O. K.

A. These are in weekly statements. The week of January 2d to the 5th.

Q. What year?

A. 1951. January 2d to the 5th, we had nine shipments in that week to Grinnell.

Q. Inbound?

A. Inbound. The week of the 6th to the 12th, there were 12 shipments.

Q. Inbound?

A. Inbound. 1952, the week of the 20th to the 26th.

Q. Of January?

A. Yes, 11, the shipments.

Q. Inbound?

A. Inbound. This is January 27th to the 2d of February, seven shipments.

By Mr. Howland:

Q. What year was that?

[fol. 2277] A. 1952.

By Mr. Fowler:

Q. What do you say as to whether or not the information you have just given us is fairly representative of your operations there?

A. It would be. That came from our own accounting I. B. M. sheets. That is out of the office. I think, pardon me, in addition to that there are some collect shipments. These are the prepaid, but it again would be about the same.

Q. All right, take the Iowa City point unless you are not thru with Grinnell.

A. I have just now found apparently a statement from Pasch which covers the collect shipments.

Q. All right, tell us what that is.

A. He doesn't identify it as to a period of time. The statement is of February 20th, 1951, and lists the Pro Numbers, consignees, and the weight.

Exam. Carpenter: Strike that off the record, Pasch on the collect shipments.

Mr. Fowler: Strike that off the record.

Exam. Carpenter: Better strike it physically.

Mr. Fowler: Yes, strike it physically.

A. The next is Maher Brothers at Iowa City.

By Mr. Fowler:

Q. Well, give us information with respect to the inbound and outbound shipments and a breakdown for two typical periods in 1951 and two typical periods in 1952.

[fol. 2278] A. The week of February 24th to March 2d Maher Brothers at Iowa City——

By Exam. Carpenter:

Q. What year?

A. 1952. There are approximately twenty-five shipments handled for our company there.

By Mr. Fowler:

Q. Inbound shipments?

A. Yes.

Q. All right, go ahead.

A. February 10th to the 16th of the same year, there was approximately forty shipments without counting them individually.

Q. Inbound and outbound both?

A. I believe they are all inbound. February 3d to the 9th, 1951, approximately forty shipments I would guess from the Pro Numbers. They are all inbound. January 27th to February 2d, 1951, it looks like approximately fifty shipments, and I would say they are all inbound.

Q. Do you have some similar information there for Atlantic?

A. If I can find it. Atlantic, Iowa, Smiley Transfer statement of January 30th for 1952. He lists about four and one-half pages of Pro Numbers and shippers for which he picked up and delivered freight for us at Atlantic.

By Mr. Howland:

Q. Does that cover a period of one month?

A. One month.

By Mr. Fowler:

Q. Could you look through that document and see if that covers minimum shipments as well as volume shipments?

[fol. 2279] A. On the first sheet we have one hundred pounds, and on the top of the second sheet we have 33,745 pounds.

Q. Take the top of the third sheet if there is any.

A. One hundred sixty-seven pounds. January 2d through the 5th.

Q. January 2 to January 5, 1952?

A. Yes. These would be collect shipments handled by the Smiley Transfer at Atlantic. There is approximately twelve shipments which would be inbound, as they are collect. January 1st to the 26th, 1952, collect shipments, there was seven shipments. January 13th to the 19th, 1952, twelve shipments.

Q. Are those——

A. Collect shipments.

Q. Are those small shipments?

A. They are all small.

Q. I believe that is sufficient.

A. Well, I was going to identify the others.

Q. Proceed, then.

A. In addition there is a statement for the prepaid shipments of approximately a page and a half Pro Numbers for that month.

By Mr. Howland:

Q. That is February?

A. February.

By Exam. Carpenter:

Q. Approximately how many shipments?

A. Approximately twenty-five.

Mr. Fowler: Do you care to look at those?

Mr. Nolan: Yes, I want to look at them.

[fol. 2280] Mr. Fowler: We will try and keep them in the right set. Let the record show we are now handing to the counsel for the applicant for their inspection the cartage and commission agents' reports to which the witness has just referred.

By Mr. Fowler:

Q. It is true, then, is it not, Mr. Hobbs, that with respect to all of these points that you are authorized to serve on U. S. Highway 6, you are rendering a regular daily, or substantially daily, service to every point on every type of shipment irrespective of the type?

A. That would be true with the exception of Adel, and I don't remember a shipment going to Adel.

Q. Have you ever had a call for service at Adel?

A. I don't believe we have.

Q. Do you know of your own personal knowledge there is a carrier that serves Adel from Des Moines?

A. There are several carriers, I believe.

Q. That serve Adel from Des Moines?

A. Yes.

Q. Adel is located what distance from Des Moines, approximately?

A. Twenty-two miles west of Des Moines.

Q. Do you have some special setup at Kellogg, some special service arrangement at Kellogg?

A. Kellogg, we deliver from the road trailer at Kellogg, and the requirement, to be in there between business hours, 8:00 in the morning and 5:00 or so in the evening.

[fol. 2281] Q. Are you acquainted with Mr. Don Foster of the Midwest Stamping Company?

A. No, I am not.

Q. Are you acquainted with the Midwest Stamping Company?

A. I know of them, yes.

Q. Do you perform any transportation service for the Midwest Stamping Company?

A. Yes, we do.

Q. And state whether or not that has been infrequent periodic*ity* or substantially frequent?

A. It has been over the years it hasn't been large, but it has been constant.

Q. Have you ever had any requests for service from the Midwest Stamping Company you have been unable to handle for him?

A. I don't believe so.

Q. Are you acquainted with an institution located at Council Bluffs, Iowa, known as Gerald Ball that manufactures hammers for hammer mills?

A. No, I am not.

Q. Do you recall any request you have had for service from him you have been unable to perform?

A. No.

Q. Do you perform transportation over your System for Brown-Camp Hardware of Des Moines?

A. Yes, we do.

[fol. 2282] Q. Des Moines Drug Company of Des Moines?

A. Yes, we do.

Q. Luthe Hardware of Des Moines?

A. Yes.

Q. Are you acquainted with an institution at Grinnell, Iowa, known as Louis W. Phelps that manufacturers playground equipment?

A. No, I am not.

Q. Have you ever had any demand for service, or call for service, from that manufacturer you have been unable to perform?

A. Not to my knowledge.

Q. Are you acquainted with an institution at Minneapolis, Minnesota known as Janney-Semple-Hill?

A. Ye

Q. Do you perform any transportation service for them?

A. Yes, we do.

Q. Have you performed any transportation for them to points on U. S. Highway 6?

A. I wouldn't know whether we do or not.

Q. Do you recall any service being asked for of that type which you have been unable or unwilling to perform?

A. No.

Q. If shipments were tendered to you at Minneapolis destined to points on U. S. Highway 6 which you are authorized to serve, would you handle them?

A. Yes.

[fol. 2283] Q. Irrespective of the type of shipment, or its weight?

A. That is right.

Q. Now, Mr. Hobbs, assuming that future developments should bring about a curtailment of or abandonment of any of the existing transportation service which is available to the public to points located on U. S. Highway 6, what is the fact as to whether or not your company would be willing to seek authority to complete its authority to all points on U. S. Highway 6 in interstate commerce and provide a daily peddle service to all of those points?

A. It has been discussed by our people, and they would file an application for such authority.

Q. And if such authority was granted, will they perform it?

A. They would.

Q. If it should develop there is any curtailment in the service of the present carrier which is handling the intrastate traffic to these points, what is the fact as to whether or not you would be willing to file an application and then if authorized, to perform that service?

A. We would.

Q. Does your company presently serve the town of Peoria, Illinois?

A. Restricted commodities, liquor and meat.

Q. What is the fact as to whether or not your company is willing to accept interline freight at Davenport from [fol. 2284] other carriers destined to points on U. S. Highway 6 which you are authorized to serve?

A. We would.

Q. And is that true with respect to any type or weight of shipment?

A. That is right.

Q. What would be your present service on L. T. L. shipments originating at Minneapolis or St. Paul and destined to any points which you are authorized to serve on U. S. Highway 6?

Mr. Howland: What was that question?

Exam. Carpenter: Read the question.

(Question read.)

A. As an example, a shipment moving from the Twin Cities, picked up in the Twin Cities today, would arrive in Des Moines tomorrow and be delivered to Newton, for example, the next day.

By Mr. Fowler:

Q. And is that same thing true with respect to shipments which would be interlined to you at Des Moines and originate at Kansas City?

A. If we received an interline shipment today by 3:30, which is our cut-off time, that would be loaded out tonight for those points.

Q. What would be your normal service on an L. T. L. shipment originating or interlined to you at Chicago and destined to points you are authorized to serve on U. S. Highway 6, excluding from the question such points as the Tri-Cities and Des Moines?

[fol. 2285] A. If we received a shipment, for example, for Marengo?

Q. Marengo.

A. Today at Chicago, it would be loaded on a truck that would leave Chicago late tonight and peddle that shipment direct at Marengo tomorrow.

Q. Now, what is your present competition between Chicago and Omaha, motor carrier competition?

A. Merchants, Watson, Rock Island, Roberts. Oh, pardon me, I was thinking about Des Moines.

Q. From Chicago to Omaha.

A. There is a lot of them. On-Time, Watson, Red Ball, Merchants, Rock Island, I. T. I., Union.

Q. Well, is it fair to say there are ten substantial carriers at least?

A. Yes, it is.

Q. Now affording a motor carrier service between Chicago and Omaha?

A. Yes, it is.

Q. And is it fair to say an equal number are affording service from Chicago to Des Moines?

A. I don't know there are ten coming into Des Moines.

Q. All right. Is it fair to say there are five or six?

A. I believe so.

Q. And what is the situation with respect to Minneapolis, Minnesota, to Des Moines, would you say there are five established carriers?

[fol. 2286] A. Yes, there are more than five.

Q. Now, you are aware that the permanent authority which the Rock Island Motor Transit Company holds contains certain key point restrictions with respect to the movement of rail freight by truck, namely key point restrictions at the Tri-Cities and Des Moines which restrict an all-truck movement from Chicago to Des Moines or Omaha. Now, assume that by reason of this application those restrictions were removed. What is your opinion as to the effect of that additional competition upon your company's operations?

Mr. Howland: Objected to as calling for an opinion and conclusion on the matter to be determined by the Commission, argumentative in form and no proper foundation laid.

Exam. Carpenter: The objection overruled.

A. We consider the Rock Island Motor Transit Company

would be the very highest type competitors, and naturally would have an effect upon our business.

By Mr. Fowler:

Q. Would you regard an all out—I will withdraw that. Would you regard an operation by the Rock Island Motor Transit Company which was limited to rail freight moving on rail billing, merely as auxiliary and supplemental to its train service, with key point restrictions preventing through operation from Chicago to Des Moines and from Chicago to Omaha, as competitive as an operation which would per-
[fol. 2287] mit an all out motor carrier operation in relation to its effect on your company?

A. I don't believe it could be as competitive from an operational standpoint.

Mr. Fowler: You may examine.

Exam. Carpenter: Cross-examine.

Mr. Fowler: I will offer those exhibits later.

Cross-examination.

By Mr. Howland:

Q. All right. Mr. Hobbs, do I understand that you have been connected continuously since the year 1932 with the Des Moines Transportation Company?

A. And the company preceding them.

Q. The principal executive of that company is Mr. Birney Baker?

A. That is right.

Q. Now, in 1932 when you became connected with Mr. Baker, or his organization, between what points was Baker operating as a motor carrier at that time?

A. It was quite wide. It was between——

Q. Well, go ahead.

A. It was prior to any regulation.

Q. Prior to any regulation.

A. We operated from Omaha to New York.

Q. Now, initially, the Des Moines Transportation Company applied for and received certificates from the Inter-

state Commerce Commission after regulation became effective in 1935 between what points?

[fol. 2288] A. Des Moines and Chicago.

Q. So in 1935 the operation was confined to a transportation service between Chicago and Des Moines, is that right?

A. And that area, yes.

Q. And at that time did you receive the authority from the Interstate Commerce Commission to serve substantially the intermediate points that are embodied in the present certificates?

A. Yes.

Q. In other words your operating authority at that time was on U. S. Highway 6 as far as regular route operations were concerned, and generally between Chicago and Des Moines, is that right?

A. That's right.

Q. Now, that operation continued by the Des Moines Transportation limited to Chicago and Des Moines for a number of years, and then, I believe, was extended to Omaha?

A. That is right.

Q. And about what year was it that your service was extended to Omaha?

A. 1939 or 1940, I believe.

Q. And was that done by the acquisition of another carrier, or by application for a certificate?

A. Acquisition.

Q. And do you recall who the carrier was you purchased there?

A. Holdcroft Transportation, H-o-l-d-c-r-o-f-t.

Q. Holdcroft Transportation, H-o-l-d-c-r-o-f-t?

[fol. 2289] A. H-o-l I believe it is.

Mr. Fowler: H-o-l-d-c-r-o-f-t.

By Mr. Howland:

Q. So in 1939 or 1940 that operation was extended into Omaha and at that time you acquired all of the Holdcroft rights, whatever they were?

A. Between here and Omaha.

Q. Between Des Moines and Omaha?

A. That is right.

Q. And that, of course, included the intermediate points which are embodied in your present certificate which has been made an exhibit here?

A. With the exception of that irregular route authority.

Q. Up into Coon Rapids and that territory?

A. That is right.

Q. Now, at some time or other you also acquired some certificates up on U. S. Highway 30 north and west of Des Moines.

A. 1947, December 10th, acquisition of Ruan.

Q. And what were the terminal points of that operation which was acquired in 1947?

A. The Twin Cities and Des Moines. They had Des Moines and the Twin Cities with various routes in the State of Iowa.

Q. And did that include a route on U. S. Highway 30 extending up through Carroll to Denison, Iowa?

A. Yes, sir.

Q. And that you say was in 1947?

[fol. 2290] A. That is right.

Q. And as part of that acquisition your Des Moines to the Twin Cities of Minneapolis and St. Paul, Minnesota, was likewise acquired?

A. That is right.

Q. And you now have pending, I believe, some application before the Commission for the approval of the acquisition of the Kansas City-Des Moines operation, do you not?

A. The Worden transfer.

Q. And that matter has been heard, has it, or what is the status of that?

A. Yes, it has been heard. The hearing was a week ago last Monday.

Q. And no decision?

A. No decision.

Q. Rendered as yet. Now, about what is the total number of route miles operated by the Des Moines Transportation Company at the present time?

A. Frankly I could not tell you without adding them up. I never thought of them in that category.

Q. Well, in any event at the time the regulation became

effective under the Motor Carrier Act, was there a concern operating in Des Moines known as the White Line Motor Freight Company?

A. Oh, yes.

Q. And you were familiar with that operation, were you not?

[fol. 2291] A. To a certain extent.

Q. And that operation was a Chicago-Omaha operation with one segment extending from Iowa City to Cedar Rapids, and another line down to Muscatine?

A. That is right.

Q. With certain gaps or limitations in that authority?

A. I think that would be right.

Q. And that operation was subsequently acquired by the Rock Island Motor Transit Company, was it not?

A. That is right.

Q. Now, this operation extending up into western Iowa, the westerly terminus of that authority was Denison, Iowa, in Crawford County, was it not?

A. No, I believe that is Omaha.

Q. Does that extend through to Omaha on U. S. Highway 30?

A. Yes.

Q. What is the fact as to whether the Des Moines Transportation Company has continued to operate over that route to the present time?

A. We operate over that route from Omaha or from Mason City, to——

Q. And Mason City?

A. To Omaha.

Q. To Omaha?

A. That is right.

Q. Do you render any east and west service into Denison, [fol. 2292] Iowa, the points between Denison and Carroll at the present?

A. Some.

Q. Do you perform any local service of any kind in there?

A. No.

Q. And how frequently do you operate into Denison at present?

A. Denison?

Q. Yes.

A. Very irregularly.

Q. Very irregularly?

A. That is right. We had an Iowa intrastate authority there, and the Iowa Commission granted the Crouse Cartage Lines intrastate authority. He was a local carrier there, and there was no tonnage for the Des Moines Trans. after Crouse started operating.

Q. In any event that authority so far as service between Carroll and Denison and local points has practically been abandoned by the Des Moines Trans.?

A. Not between Carroll, we have no authority interstate as it is served, if that is what you are trying to say.

Q. Westside?

A. Westside.

Q. And those points?

A. Those three points.

Q. You have not served in recent months or years?

A. We have been in there. We were in Denison just recently.

[fol. 2293] Q. You don't render any regular local service?

A. Not daily, no.

Q. Now, with respect to these exhibits, which I believe began with Exhibit No. 37, these manifests.

Exam. Carpenter: 36. You mean just the manifests?

By Mr. Howland:

Q. Yes, that is these exhibits which began with 37 and extend through 48. Those are, as I understand, manifests showing the shipments transported on particular movements on the particular dates set forth?

A. To that particular point, that is right.

Q. And the point of origin of the run and the point of destination is as shown at the head?

A. At the top of the manifest.

Q. At the head of the exhibit in each case?

A. That is right.

Q. Now, for instance, Exhibit 37 is a manifest, the tractor number is not shown, but the trailer number is 346, and

that is a truck that moved from Chicago, Illinois, to Des Moines, Iowa?

A. That is right.

Q. And the total weight of the shipments handled in that movement was 27,801 pounds?

A. That is right.

Q. Now, apparently that truck went both to Iowa City and Cedar Rapids before it got over to Des Moines?

A. Its line of travel would be Chicago, Davenport, Cedar [fol. 2294] Rapids, Iowa City, Des Moines, Marengo and Newton.

Q. But that was a Chicago-Des Moines unit?

A. That is right.

Q. That was operating in regular service?

A. That is right.

Q. And the points served on that besides Des Moines, on that movement were Davenport, Iowa City, Cedar Rapids, Grinnell, Kellogg, Marengo and Newton?

A. That is right.

Q. Now——

A. Apparently its destination was Newton so far as the lading was concerned.

Q. Well, it is headed at least as a Des Moines shipment or Des Moines truck.

A. The movement of the truck was Des Moines.

Q. Yes.

A. But the freight was finished at Newton.

Q. Now, Exhibit 38 is a similar shipment, or similar movement, and with similar distributions, too, with the exception of two shipments, one to Mason City and one to Clear Lake, Iowa, which were also included on that run?

A. That is right.

Q. Now, I notice Exhibit 39 has a large rubber stamp at the bottom, and Exhibit 40 has a similar rubber stamp "PEDDLE". Is that put on for the purpose of determining [fol. 2295] the compensation that is paid to the driver for the service which has been rendered?

A. No. Your first group of manifests are 1951, and you will notice that all points are listed on one sheet. In 1952 the procedure was changed, and each town was sup-

posed to be manifested on a separate sheet, and the drivers were missing their deliveries. In other words, they were failing to stop at certain towns, so trying to call that to the driver's attention he is supposed to stop.

Q. Now, I notice on Exhibit 39, and also on Exhibit 40 there is some wording on each of the exhibits. In one instance is reads on Exhibit 39, this is another manifest on the same, "P. R. L. R. that carried frt. for Des Moines, Davenport, Iowa City, Cedar Rapids, Grinnell" with the total weight of 30,382 pounds. Do you know when that was added to the exhibit?

A. May I see it. This apparently is a supplemental manifest, too.

Q. The question is, do you know when that was added?

A. At Chicago, at the time it was made up, yes.

Q. And on Exhibit 40 there appears the entry, this is another manifest, what is the same "P. R. & L. R." That carried Cedar Rapids, Grinnell and Newton merchandise.

A. A supplemental manifest.

Q. Now, on all of these manifests is there anything to indicate the time of departure of the particular unit from Chicago?

A. May I look. Some of them are and some of them aren't.

[fol. 2296] Q. Well, look at Exhibit 37.

A. This would not indicate the departure time of the truck. This would indicate the time that this manifest was completed.

Q. That would be January 10th, or January 10th it is endorsed, 1:48 a. m., 1951.

A. That is right.

Q. That is the time of the completion of the manifest?

A. That is right.

Q. And the truck would depart at some time subsequent, and the time of departure and the time of arrival is not shown?

A. No, they would be shown on the driver's pay sheet he stamps out on another record.

Q. What pick-up service would be afforded on these runs by this truck and trailer unit shown in Exhibit 37?

Mr. Fowler: You will have to show him the exhibit.

A. May I have the question again?

Exam. Carpenter: Read the question.

(Question read.)

A. This would all have been accumulated at Chicago by interline delivery to our dock or by our own trucks picking it up over the city.

By Mr. Howland:

Q. In other words there is no pick-up service performed by this particular unit on its run between Chicago and Des Moines?

A. No.

[fol. 2297] Q. And, as a matter of fact, it isn't the practice on any of these runs from Chicago to Des Moines to perform a pick-up service at any intermediate point, is it?

A. At any intermediate point?

Q. Yes.

A. By the road driver?

Q. Yes.

A. Oh, yes.

Q. Well, in any event it is true, is it not, that all of these manifests identified as Exhibits 37 to 48 inclusive include only deliveries and indicate no pick-up service?

A. That is right, unless they haven't been entering that. I would like to see whether there is anything going east in those exhibits. Are they east or westbound?

Q. Some of them are east, and some of them are west, but in any event they indicate nothing but a one way movement in any instance I have so far observed. Did you observe anything but a one way movement?

A. A truck leaving Des Moines going to Newton would pick up if there was freight there, or Iowa City. I noticed on one of the manifests the driver asked for freight at Maher Brothers.

Q. At Maher Brothers at Iowa City?

A. That is right. The transfer company would accumulate the freight if it was not a truckload.

Q. Now, referring particularly to these eastward move-

[fol. 2298] ments, what is the fact as to whether the preponderance of your movement is in an east to west or west to east direction?

A. At the present time we are overbalanced. We are running heavier east. However, that is not a natural operation.

Q. That is not a normal situation in your operation?

A. But it has been so some share of the time this year.

Q. Is that due to the fact that you have had a substantial quantity of truckload business out of Des Moines?

A. I think we attribute it to two things. The Chicago tonnage has been down westward, and we have been able to increase our eastbound tonnage.

Q. That is out of Des Moines and Omaha?

A. Out of anywhere, from here.

Q. Have you increased the types of truckload business that you have been handling since about the first of January? Have you been taking on some commodities you didn't previously handle?

A. No, I don't believe so.

Q. Haven't you been handling some shipments of corn, seed corn and other shipments of corn?

A. We have handled very little corn this year. We handled some last fall. We handled a considerable amount.

Q. That was all an eastward movement?

A. That would all be eastward.

Q. And one of the things that is essential to a good operation of a truck line, it is to balance your loads, is it not, Mr. Hobbs?

[fol. 2299] A. It has to be.

Q. It has to be. Without a fairly balanced movement in each direction can any truck line, in your judgment, operate economically?

A. I will qualify that by saying any company that owned their own equipment.

Q. Any company that owned their own equipment?

A. That is right.

Q. Well, that is they have to have a balanced operation in order to really continue in business under the present day conditions in this territory, is that not true?

A. It is a necessity.

Q. Yes, sir. Now, going back again to these operations east from Des Moines, if you had a unit, tractor and semi-trailer unit that was going to go to Peoria to pick up a load of liquor for the Liquor Commission here at Des Moines, you would load that with anything that was available for the eastward movement, would you not?

A. We would if we could, we would terminate that truck, so far as that load is concerned, at Davenport.

Q. And I notice on Exhibit No. 45, which is a shipment Des Moines to Marengo, that that indicates the total load on that unit of five hundred nineteen pounds.

A. No, that indicates that was all for Marengo.

Q. On that unit at that time?

[fol. 2300] A. That is right.

Q. Now, do you have with you the other manifests for that same trip with Exhibit 45?

A. No, I do not.

Q. Those are in your possession?

A. That is right.

Q. At your office?

A. May I just, off the record.

Mr. Howland: Off the record.

(Discussion off the record.)

Exam. Carpenter: He did not answer the question.

Mr. Howland: Not completely, well, off the record.

Exam. Carpenter: No, it is on the record.

(Question read.)

A. Yes.

By Mr. Howland:

Q. Now, was it not true in 1951 it was the policy followed by your company to put a number of destinations all on one manifest?

A. That is true.

Q. And that policy was changed some time during the year 1951?

A. That is right.

Q. And separate sheets were made up?

A. That is right.

Q. Now, calling your attention to Exhibit 45, I notice that date is 2-5-51 as I read it, is that not correct?

[fol. 2301] A. That is right.

Q. So, as a matter of fact, if the usual policy was followed in that respect, in making up Exhibit 45, it is true that all of the shipments that were in the particular unit would be shown on the exhibit?

A. If that were true, yes.

Q. Well, that was the policy and practice that was being followed at that time?

A. They were supposed to follow that, that is right.

Q. And the same thing is true of Exhibit 46, which bears a date of 2-11-51, does it not?

A. That is right.

Q. Now, on Exhibit 47 I notice, which bears date of January 27, 1952, that you show both Kellogg and Marengo shipments on that same manifest.

A. That is right which indicates there is no rhyme or reason.

Q. Well, in any event it is true, is it not, that so far as the eastward movements from Des Moines are concerned, whether in '51 or in '52, that your relative eastward movements were light compared with your westward movements?

A. That is a true statement.

Q. And the equipment was being turned and sent back to Chicago, in any event it would have to go back to Chicago for further loading as a general proposition, would it not?

A. That is true. Our load average out of Chicago is in [fol. 2302] excess of twenty-eight thousand pounds per unit, and our load factor to Chicago is just in excess of twenty per cent, so we had ample space to haul any freight that was offered going east.

Q. You had a bunch of statements and bills from various transfer agencies at Iowa City, Grinnell, and I believe one or two from Davenport, and you have shown with respect to some of those, weights of individual shipments of thirty-three thousand pounds in one instance I recall.

A. I believe that would be true of Atlantic.

Q. That was a truckload shipment, wasn't it?

A. That would be.

Q. How come that gets on the local cartage man's statement? Do you pay him for tonnage that moves in regardless of whether he handles it?

A. That is strictly goodwill.

Q. In other words, if you have a shipment going to Atlantic, Iowa, of a truckload, the general practice will be for that truck to go direct, the semi and the tractor to go direct to the consignee's place of business and be unloaded by your employees, would it not?

A. Our employees could do that, but in order to get these people to handle our freight regularly they insist on participating in all of the traffic we handle in and out of their town, and whether they are on the truck or not, they expect to be paid for it.

Q. And you accede to that?

[fol. 2303] A. We do.

Q. Now, as a matter of fact, doesn't your company with respect to its truckload business follow the policy of sending the road unit direct to the consignor's place of business and have it loaded at that point?

A. Yes, whenever at all practicable or possible.

Q. In other words, you try to eliminate the handling of all of your volume shipments and your truckload shipments over the dock?

A. We certainly do.

Q. And why do you do that?

A. To save money.

Q. To save money. In other words, if you can eliminate the handling across the dock it is very definitely reflected in your cost of doing business?

A. That is true.

Q. Now, the Des Moines Transportation Company through the years has consistently solicited and handled a substantial volume of truckload or volume freight, has it not?

A. Yes.

Q. And can you tell us about what the percentage of your truckload freight would be to the total tonnage handled?

A. Fifty per cent.

Q. And what is the fact as to whether in later years, particularly since the termination of the war, that that [fol. 2304] percentage has increased?

A. The percentage of truckload business?

Q. Yes, percentage of truckload tonnage compared to the gross tonnage, the total tonnage.

A. I don't believe we had as good a record prior to the war as we do now, but we are handling, I believe, considerable less truckload business today than we did two or three years ago in percentage-wise. We are becoming a larger carrier of less truckload traffic by the year it seems like. It is forced on us.

Q. Of course, you prefer, when you can, to handle truckloads rather than L. T. L., don't you?

A. We are fighting to handle it.

Q. Yes, sir, and that is the most desirable type of, the truckload tonnage and the volume tonnage of six to ten thousand pounds and above is the desirable freight?

A. That is certainly so.

Q. Now, what is the fact as to whether in recent years, say from the year 1945 on, that the total tonnage handled by the Des Moines Transportation Company has shown an increase? Do you have the question in mind, Mr. Hobbs?

A. Yes, I believe so.

Q. O. K.

A. May I have the question.

Exam. Carpenter: Read the question, please.

[fol. 2305] (Question read.)

A. It has.

By Mr. Howland:

Q. Do you have, I notice you have some figures there before you which apparently was in an envelope. Do you have with you there the total over-all tonnage figures by years?

A. I have from 1944 through 1951.

Mr. Howland: And may I examine the sheet?

Exam. Carpenter: This is off the record.

(Discussion off the record.)

Mr. Howland: I will ask that the sheet headed "Analysis of Revenue, Profit, Tons handled, and Equipment by years", which has just been produced by the witness, be marked for identification as Exhibit 49.

Exam. Carpenter: Any objections, Mr. Fowler?

Mr. Fowler: No.

Exam. Carpenter: All right, mark it Hobbs' Exhibit No. 49.

(The statement referred to was marked as "Applicant's Exhibit No. 49, Witness Hobbs," for identification.)

Mr. Howland: Let's have another copy, if we may, for the Examiner. Do you have another one?

By Mr. Howland:

Q. Now, I call your attention to the sheet marked for identification as Exhibit 49, and ask you if that is the statement of "Analysis of Revenue, Profit, Tons handled, and Equipment by years" of the Des Moines Transporta-[fol. 2306] tion Company, Inc.?

A. That is. It was taken from the annual report, yes.

Q. And it shows beginning in 1944 that the tonnage handled, or tons handled, was 49,871, and it shows an increase in tons handled each year with a total in 1951 of 182,226?

A. That is right.

Q. It shows total revenue commencing in 1944 with $490,433 and increasing each year to a total revenue of $2,737,130 in 1951?

A. That is right.

Q. And also shows the number of units of trucks, tractors and trailers owned as of the year ending in each year?

A. That is right.

Exam. Carpenter: Further explain the figures shown in parenthesis as to 1944 and 1945. I suppose that is a deficit?

A. That is right.

By Mr. Fowler:

Q. That is a red figure?

A. That is a loss.

By Mr. Howland:

Q. The two years, 1944 and 1945 in parenthesis, would indicate normally a red figure or a loss figure?

A. That is true, an operating loss or a loss.

Q. And the black figures without parenthesis are as shown "Profit before Taxes" and "Profit after Taxes" in each of the years?

A. That is right.

Q. And in each of these years the figure of "Profit before Taxes is after payment of the executives' salary, and [fol. 2307] matters of that sort?

A. That is true.

Q. And is it not true that in the year 1951 that the officers, owners and partners in the Des Moines Transportation Company received in the year 1951 salaries totalling $61,799?

A. I would think that was right. That is the report, the annual, wasn't it?

Mr. Howland: That is the annual report to the I. C. C., evidently.

Exam. Carpenter: This would be a good place to stop to have a recess.

Mr. Howland: I believe it is.

(Short recess.)

Exam. Carpenter: You may proceed.

By Mr. Howland:

Q. Mr. Hobbs, as I understand it, your company-owned terminals are located at Chicago, Omaha, Twin Cities, Mason City and Des Moines?

A. They are not all company-owned. Company-operated.

Q. Company-operated.

A. Our own personnel, on our own payroll.

Q. With your own employees?

A. That is right.

Q. Now, you have local cartage or draymen at the other points which you refer to as your terminal points?

A. Our agency stations.

[fol. 2308] Q. Or agency stations. I believe you said on direct examination, at least I so understood, the Roederer Transfer and Storage Company was the local agency at Davenport?

A. That is right.

Q. Now, when was that arrangement first made?

A. Well, I believe it would have been during the war, 1943 or 1944. I believe that would be about when it was.

Q. And was there any change in the process of being effected there or in contemplation with your setup at Davenport?

A. There hadn't been up until the last thirty days. In the last thirty days we have stationed a salesman part time in that area.

Q. But you have not established a company-operated terminal?

A. No, we haven't. Roederer has always looked after our pick-up and delivery and any sales work.

Q. And before about thirty days ago you did not have a solicitor on the street in Davenport?

A. Not of our own, on our own payroll.

Q. But you have put that in sometime within the last thirty days?

A. That is right.

Q. And that solicitor, of course, operates in the entire Tri-City area for your company?

A. He was put in there primarily to try and develop overhead traffic to Omaha, the Twin Cities, and Des Moines.

[fol. 2309] Q. Now, you have no intrastate authority on U. S. Highway 6, I believe?

A. None.

Q. And what intrastate rights does the Des Moines Transportation hold in the State of Iowa?

A. Oh, we hold intrastate rights from here over Highway. it goes to Ames.

Q. 69.

A. 69 to Ames, over 30 to Denison, over 69 to Garner, Iowa, to Mason City, serving intermediate points; and we have other authority over Highway 3 in a general area to Eagle Grove and many little points in that area.

Q. What service do you perform on U. S. 69 north of Ames?

A. North of Ames?

Q. To Garner, up through Belmond, Blairsburg and those points?

A. We have a truck that leaves here about six o'clock in the morning and peddles, going up 69 to Mason City.

Q. Is that the old Leonard Line that you acquired up to Mason City?

A. There were several of them jointly, and we had that application cleaned up by the Commission, and there was about four leases in it.

Q. Leonard had some leased authority?

A. I think so.

Q. He operated under a lease, and you ultimately got [fol. 2310] the Leonard authority plus whatever leases he had?

A. That is right.

Q. You finally established your authority there, both interstate and intrastate?

A. That is right, and we have a truck that leaves Mason City about nine o'clock in the morning and peddles coming back.

Q. Southbound to Des Moines?

A. That is right. We have another truck that goes daily into, this goes into Eagle Grove and peddles that area up there. We have another one——

Q. What towns are served by that operation?

A. Eagle Grove?

Q. Yes.

A. I don't know as I can tell you all of them.

Q. Is that the Clarion operation?

A. That is the Clarion operation, Goldfield, Eagle Grove, Woolstock, Clarion.

Q. C-l-a-r-i-o-n.

A. It seems like there is more than that.

Q. Do you go into Webster City on that operation?

A. No, we have no authority into Webster City.

Mr. Howland: That is all that I have.

By Mr. Nolan:

Q. Mr. Hobbs, Mr. Birney B.ker is the President of your company and was during the month of October, 1951, I believe?

[fol. 2311] A. That is right.

Q. And he appeared as a witness on the application, on the hearing on the application for temporary authority in this case?

A. Yes.

Q. Now, is it the policy of your company to attempt to avoid a multiple interline of shipments, for instance, a shipment destined to Wellman, Iowa, say from, originating at a point east of Chicago, would your company refer that to a direct line carrier rather than interline it with some company in Chicago and take it to a point on your System and interline it again with some destination carrier, if possible?

A. I believe it would be the policy of our company, if it was just a shipment, to handle it, but if it was repeated, to some one, possibly suggest that was better service than we could offer.

Q. Would you agree with Mr. Baker's testimony on that subject when this question was asked of him and this answer was given? "Q. Mr. Baker, is it your company's policy, like other companies' policy, to attempt to avoid a multiple interline, do you not? The answer is "Very definitely." Following was this question. "Q. For instance, a shipment tendered to your company at Chicago by a carrier coming in from the east destined to a point like Kalona, Iowa, or Wellman, Iowa, to which point your company has no authority to serve, you would not solicit that type of freight?" Answer, "We attempt to get them to give it [fol. 2312] to a direct line carrier if possible."

A. That would be true, having the shipper's interest at heart.

Mr. Nolan: Yes, sir.

Mr. Fowler: Mr. Hobbs——

Mr. Howland: We desire to offer in connection with the cross-examination, Exhibit 49.

Redirect examination.

By Mr. Fowler:

Q. Mr. Hobbs, on cross-examination there was some discussion about your peddle operations, and to summarize it you do conduct peddle operations out of Des Moines north to Ames, west as far as Jefferson, continuing from Ames north to Mason City and Garner, and then east to Charles City and that area in there, and you do afford a daily peddle service in interstate and intrastate commerce in that territory?

A. We do. We operate a truck daily from Des Moines to Ames, on to Boone and Ogden, on to Grand Junction and those points west of there to Carroll, and on to the Eagle Grove area. From one to several to Mason City, serving those intermediate points, and we have a regular run to Charles City, which is an intrastate run only, plus the peddles that we run east and west.

Q. Now, with respect to the importance of interline traffic to a motor common carrier, can you tell us what per cent the total tonnage handled by your line is interline traffic?

A. Tonnage-wise it is fifty-one per cent at the last survey.

Q. And shipment-wise?

[fol. 2313] A. Forty-six, that is total.

Q. If you know can you tell us what per cent of the total shipments you handle are shipments which are handled from a point to a point on your system?

A. Read the question.

Q. I will withdraw that. If you know can you develop for us the relationship between shipments handled exclusively from origin to destination over your line in relation to interline traffic you give to other carriers and interline traffic given to you, shipment-wise?

A. I have a list of a four week trade survey made in August of 1950 under the supervision of Wolf & Company.

developed that the tonnage handled by the Des Moines Terminal during that period there was 968 shipments of 2,200,000 pounds that were on-line shipments, shipments originated by the Des Moines Transportation Company at Des Moines; and given to one connecting line carrier for that four week period was 2,046 shipments or 1,898,000 pounds. Shipments originated by a connecting line carrier and tendered to the Des Moines Transportation Company at Des Moines for that four week period were 1,203 shipments of 1,223,000 pounds. Shipments for that same period of which the Des Moines Transportation Company participated, but there were two or more connecting line carriers, were 360 shipments for 136,000 pounds.

Q. Now, with respect to your interline, interchange arrangements at Des Moines, do you have a mutual interline [fol. 2314] arrangement with the Iowa-Nebraska Transportation Company?

A. Iowa-Nebraska, and we interchange with other carriers, yes.

Q. And what is the fact as to whether their account with you is current or otherwise?

A. I couldn't answer for them individually. I have had no occasion to check it.

Q. Have you had any report made to you that they were not in a current position?

A. No.

Q. In connection with traffic that is handled by your company and the Iowa-Nebraska Transportation Company, have you had called to your attention any complaints about claims?

A. I have had no conversation with our people regarding the Iowa-Nebraska at all in so far as claims or accounts, either.

Q. Have you at any time ever had tendered to you shipments originating on the line of the Clipper Transfer Company for points destined on Highway 6?

A. Not to my knowledge.

Q. What is the fact the H & W Motor Express Company, have they tendered you shipments on U. S. Highway 6 served by you?

A. At what point?

Q. At Davenport, or any other point?

A. I would have no knowedge. We interline with the H & W. Whether they were destined on Highway 6 or not, I have no knowedge of it.

[fol. 2315] Q. Have you ever had tendered to you at Davenport by the Dohrn Transfer Company small shipments destined to points on Highway 6 served by you?

A. I don't know. We interline some with Dohrn. I wouldn't know.

Q. What is the situation to the same effect as to the Central Transfer Company?

A. I would have no knowledge of it.

Q. And the Knox Motor Service?

A. I wouldn't know.

Q. And the Atkins Transfer Company of Louisville, Kentucky?

A. I wouldn't know.

Q. If any of these carriers tendered to you interline shipments, small or large, at your Tri-City terminal, destined to points served by you on U. S. Highway 6, would you accept them and handle them?

A. Yes.

Mr. Fowler: Off the record.

(Discussion off the record.)

OFFER IN EVIDENCE

Mr. Howland: I will offer in connection with the cross-examination of Mr. Hobbs, Exhibit 49.

Exam. Carpenter: The document is received in evidence as Exhibit 49.

(Applicant's Exhibit No. 49, Witness Hobbs, was received in evidence.)

[fol. 2316] Exam. Carpenter: All right. Recross.

Mr. Fowler: Pardon me.

Recross-examination.

By Mr. Howland:

Q. You have never attempted to offer a peddle service to small towns having a population of fifteen hundred, more or less, except in those cases in which you had both interstate and intrastate rights, have you?

A. Not other than what was required.

Q. And what is the fact as to whether a peddle service such as you operate between Des Moines and Ames and Mason City is a more or less expensive type of service, and the operating cost of that service is proportioned to the total revenue than a point to point service such as Chicago to Des Moines?

Mr. Fowler: Now, wait just a minute. All right.

A. We recently made a survey on the operation to Carroll, Iowa, from Des Moines, which is a peddle operation and on which there is practically no return haul whatsoever. Over a period of a month that run developed sixty-eight cents per mile a round-trip for the two hundred eight miles. At that time our total operation had a break-even point of sixty-two cents.

By Mr. Howland:

Q. That is your over-all operation, and of course, your Chicago-Des Moines, or Chicago-Omaha per mile revenue would be higher than the sixty-eight cents in connection with the Des Moines to Carroll operation?

A. Yes, that is true.

[fol. 2317] Mr. Fowler: That is all.

Exam. Carpenter: You are excused.

Mr. Fowler: Do you have a man, Mr. Robinson?

(Witness excused.)

GEORGE H. WOLTER was sworn and testified as follows:

Direct examination.

By Mr. Robinson:

Q. Will you state your name?
A. George A. Wolter.
Q. Where do you live, Mr. Wolter?
A. Albia, Iowa.
Q. What company are you connected with?
A. The P. & W. Truck Line.
Q. Are you the owner of that company?
A. I am.
Q. And has there been issued to the P. & W. Truck Line a certificate by the Interstate Commerce Commission?
A. There has.
Q. And what is your certificate number?
A. MC–111154.
Q. And what is the date of that certificate?
A. The 25th day of November, 1949.

Mr. Robinson: And that has been marked for identification, Exhibit No. 50.

(The statement referred to was marked as "Intervenor's Exhibit No. 50, Witness Wolter," for identification.)

[fol. 2318] By Mr. Robinson:

Q. Is that a true and correct copy of your certificate, Mr. Wolter?
A. I think so.

Exam. Carpenter: You better get your number of pages on there.

Mr. Robinson: Consisting of eight pages.

By Mr. Robinson:

Q. That is a true and correct copy?
A. Yes.
Q. Now, has there also been issued to you Certificate No. MC–111154, Sub. 10?

A. That is correct.

Q. And what is the date of that certificate?

A. The 2d day of May, 1952.

Q. You don't have extra copies of Sub. 10 with you, do you?

A. No.

Q. Now, with reference to your main Certificate MC-111154, do you have authority to serve a number of points on U. S. Highway No. 6?

A. I do.

Q. And referring to particularly Sheet 4 of your certificate with reference to the transportation of emigrant Movables as set out, a certain territory in Iowa, and immediately under that Machinery and Farm Equipment and parts thereof from Chicago, East Moline, Rock Island, Illinois, to that Iowa territory, and also Binder Twine from Chicago, Illinois, to the Iowa territory, is that correct?

[fol. 2319] A. That is right.

Q. And, then, also on Sheet 6 you have authority to transport Iron and Steel products from Chicago, Illinois, and the Chicago, Illinois, Commercial Zone, to Omaha, Nebraska, and points and places in that part of southeastern Iowa on or enclosed by U. S. Highway 6 and on east of U. S. Highway 169, do you not?

A. That is right.

Q. Now, have you been hauling the commodities in the scope of your certificate to points and places on U. S. Highway No. 6?

A. Yes.

Q. Now, have you made a check, or did you make a check today of 1952 to determine how many loads you have made?

A. Yesterday afternoon about three o'clock I told one of the bookkeepers to get me the fold of bills on one week of hauling in 1952.

Q. And did you do that?

A. He pulled the freight bills out of the file.

Q. And do you have those freight bills with you?

A. I do.

Q. Now, for what period of time was that?

A. A six day period from February 4th through February 9th.

Q. Of what year?

A. Of 1952.

[fol. 2320] Q. Now, during that period in February, 1952, how many shipments did you transport out of Chicago and the Chicago Commercial Zone to that portion of Iowa where you have authority, and particularly those points on U. S. Highway 6 and south in your territory?

A. Personally I never counted.

Q. I beg your pardon?

A. Personally I never counted these shipments.

Q. According to your account and tabulation, according to your bills, there are eighty-eight shipments. Would you say that was correct, Mr. Wolter?

A. There is quite a few freight bills, but I personally never counted them.

Q. Now, did those shipments consist of whole truckloads and also small shipments?

A. I don't know. All I know that was for one week's period on these days, I instructed the man what to do.

Q. Now, you have the supporting file here, do you not?

A. I have the freight bills.

Q. Pro No. O-8102 of February 5, 1952, a shipment of one hundred eighty pounds. That is in there?

A. What was the last two figures.

Q. What was that?

A. What was the last two figures.

Q. 02.

[fol. 2321] A. That is for one hundred fifty-eight pounds.

Q. And the one immediately after that, O-8103, was for how many pounds?

A. Six hundred fifty-five pounds.

Q. And the other shipments in that bunch of bills range up to 30,000 pounds or more in some instances?

A. They go up to 34,000 would be my opinion.

Q. How many trucks do you have? First, take the straight trucks.

A. Seven.

Q. And how many tractors?

A. Fourteen.

Q. And how many semi-trailers do you have?

A. Twenty-two.

Q. Do you have any terminal at Albia, Iowa?

A. I do.

Q. Do you have one in Chicago, Illinois?

A. 702.

Q. You have one in Chicago, Illinois?

A. Not in town, not right in Chicago, 702 Hoffman, Hammond, Indiana.

Q. Do you have terminals at other points besides Albia, Iowa, and Hammond, Indiana?

A. Yes.

Q. And whereabouts?

[fol. 2322] A. I also have a terminal in St. Louis, we have a terminal of our own. We have one at Knox City, Missouri, and one at Quincy, Illinois, and then we have arrangements here in Des Moines with the Des Moines Storage——

Q. Des Moines Transfer Company.

A. The Des Moines Transfer Company on Tuttle Street.

Q. 9th and Tuttle?

A. Yes.

By Mr. Howland:

Q. What is the name of the man you do business with there?

A. Nick. Nick is his first name.

By Mr. Robinson:

Q. How many years have you been in the business, Mr. Wolter?

A. Since 1917.

Q. And with the business formerly known as O. E. Poe and G. H. Wolter, doing business as P. & W. Truck Line?

A. No, not at that time. I was in the trucking business myself before that.

Q. But previous to the issue of the certificate in 1949, wasn't the certificate in the name of O. E. Poe and G. H. Wolter, doing business as P. & W. Truck Line?

A. Yes.

Q. And later it was transferred over to you as an individual?

A. That is right.

Q. Have you ever refused to haul any of the commodities [fol. 2323] which you are authorized to transport within the scope of your certificates?

A. No, sir.

Q. And are you holding yourself out as ready and willing to transport and haul those particular commodities?

A. I am.

Q. Are you able to transport more freight than you are now hauling?

A. I think so.

Q. And are you willing and ready to do that?

A. That's right.

Q. Now, you recently purchased some additional authority which was formerly in the name of Werner S. Kemmer?

A. That is right.

Q. Doing business as the Kemmer Motor Freight Service?

A. That is right.

Q. And that certificate is now in your name under Docket MC–111154, Sub. 10?

A. That is right.

Q. As of May 2, 1952. Now, under that certificate are you authorized to transport general commodities from St. Louis, Missouri?

A. I am, irregular route.

By Exam. Carpenter:

Q. To what points?

By Mr. Robinson:

Q. To what points?

A. Any point in the State of Iowa.

[fol. 2324] Q. And that is set out in that particular certificate, is it not?

A. Yes.

Mr. Robinson: Pardon me, off the record, off the record.

(Discussion off the record.)

By Mr. Robinson:

Q. Mr. Wolter, under your Certificate Sub. 10, you do have authority to transport general commodities between points and places in Clark County, Missouri, on the one hand, and, on the other, points and places in Iowa and Illinois?

A. That is right.

Q. And under that same certificate do you have authority to transport general commodities between Kahoka, Missouri, and certain routes set out in such certificate in the State of Missouri?

A. I do.

Q. And are you rendering the service as authorized in Certificate Sub. 10? Are you rendering that service authorized in Sub. 10?

Exam. Carpenter: The answer is "yes".

A. Yes.

Exam. Carpenter: You will have to speak up so the reporter can hear you. He is not watching you shake your head.

By Mr. Robinson:

Q. Mr. Wolter, if this application is granted, will that be a benefit or a detriment to your business?

Mr. Nolan: Objected to as calling for an opinion and [fol. 2325] conclusion of the witness. There is no showing the witness knows what the application embraces, or what service is proposed here.

Exam. Carpenter: I will overrule the objection. Go ahead and give his opinion if he has one.

A. I believe I know it wouldn't help my business. If anything it would hurt it.

By Mr. Robinson:

Q. Do you have competition now in the State of Iowa from Illinois points?

A. Lots of competition.

Q. And you have competition from the State of Missouri to Iowa points where you have authority to serve?

A. I do.

Q. And do you want more competition?

Mr. Nolan: Oh, that is objected to.

Exam. Carpenter: Objection sustained.

Mr. Robinson: You may cross-examine.

Mr. Nolan: I would like to cross-examine. What time is it? I don't know whether I can get through before midnight or not.

Exam. Carpenter: If you don't get through before midnight I shouldn't let you start.

Cross-examination.

By Mr. Nolan:

Q. Mr. Wolter, you have testified that you directed one of your employees to present to you freight bills for a week, the week being February 4, 1952, to February 9, [fol. 2326] 1952, is that correct?

A. That is right.

Q. And there were some eighty-eight freight bills which he tendered to you?

A. I didn't say how many.

Exam. Carpenter: Approximately that.

By Mr. Nolan:

Q. Approximately that?

A. Yes.

Q. Now, Mr.——

Exam. Carpenter: Mr. Robinson testified there were eighty-eight.

Mr. Robinson: I counted them. If there is any doubt about it you can count them, Cliff.

By Mr. Nolan:

Q. Mr. Wolter, your operations westbound from Chicago primarily is the handling of what we call rough freight, steel, and things of that character?

A. I don't think so.

Q. Well, now, your eastbound operation, that is a livestock operation into the Chicago market, is it not?

A. Some. Some is junk. Some, household goods.

Q. You do operate as a livestock carrier from the territory in Iowa to the Chicago livestock market?

A. I operate as that as a part of my operation.

Q. Yes, and then you have authority to, and do solicit, the handling of what we call rough or bulky freight back [fol. 2327] on your livestock trucks, primarily steel and things of that character?

A. No, tractors, combines, and any machinery of any kind.

Q. Now, have you examined these freight bills, Mr. Wolter, to determine where you got the merchandise and where you delivered it?

A. I just asked him to get me examples of the freight bills for the week.

Q. What do you understand is proposed by the Rock Island Motor Transit Company in this case?

A. Well, I received a letter from the Interstate Commission at Washington telling me, they are from some Rock Island attorneys, they had filed papers for additional authority for some occasion.

Q. What do you understand that the Rock Island Motor Transit Company is asking for in this case?

A. For to move more than five thousand pound shipments.

Q. And what territory?

A. Between Chicago and Omaha.

Q. Any other points?

A. Well, I don't believe I read any more than that. I might have not looked close enough.

Q. Have you been familiar with the operations of the Rock Island Motor Transit Company for the past thirteen years' time?

A. I was hauling into Chicago when they started.

Q. You understand that the Rock Island Motor Transit [fol. 2328] Company is the successor to the old White Line Freight Company?

A. That is right.

Q. And what difference, do you understand, that the present application proposes in the way of service than the service that has been operated and performed by the Rock Island Motor Transit Company for the past thirteen years?

A. Please make the question a little clearer. I didn't get that.

Q. Well, I will put it this way. Do you understand there is any difference in what the Rock Island Motor Transit Company is trying to do now under this application than what they have done for several years prior to August, 1951, and by "prior" I mean before August, 1951?

A. Well, I understand they are trying to gain more authority than they have. That is my impression of it.

Q. Is it your understanding now the Rock Island Motor Transit Company is trying to get more authority than they have had before, is that right?

A. Their authority has been limited, and they were trying to get it, more authority.

Q. Well, more than they had, or to get restored to them the authority they did have?

A. More than they had.

Q. To get more authority than they had, is that right?

A. I believe so.

[fol. 2329] Q. That is your understanding?

A. At least more than they have at the present time.

Q. Is it your understanding they are seeking to get more authority than they had when they were operating without any restrictions, is that your understanding, or only trying to get restored to them the authority they formerly had? Now, which is your understanding of that?

A. Well, I was under the impression they were trying to broaden their authority.

Q. Now, Mr. Wolter, you have produced here in the hearing some eighty odd freight bills and from which you testified, in which you referred to representative shipments

you handled during the week of February 4th to February 9th, 1952, for shipments going into the territory involved in this case, is that right?

A. Along Highway 6.

Q. Along Highway 6.

A. 6, and I don't know whether there is any into Omaha. I tell you I didn't look at the freight bills. I picked out one week. I couldn't tell you. The freight bills are there for themselves.

Q. If, upon examination of these freight bills, approximately two-thirds of them should they represent shipments handled by your company from points in the Chicago Commercial Zone to Ottumwa, Iowa, then those shipments would not be to any points along Highway 6, would they?

A. No, that is right.

[fol. 2330] Q. Now, about how many different points would you say from your recollection you handled shipments to on Highway 6 during that particular week in February in 1952, to which we are referring to?

A. I couldn't tell you because I never made it up. I never went over and checked them. A fair example, I try to be fair in anything I do, and reached in and got a week of freight bills and there they are.

Q. I think I can shorten this up. Mr. Wolter, I will hand you freight bills which you presented to me in connection with your testimony, in regard to shipments handled by your company during the week of February 4, 1952, to February 9, 1952, and I will ask you if there are not fifty-four freight bills there which show that your company handled shipments from the Chicago Commercial Area to Ottumwa, Iowa? Do you want to take my word for it?

A. I will take it, O. K.

Q. What is the answer to that question?

A. I will say you are right.

Q. Those freight bills show freight shipments from the Chicago Commercial Zone to Ottumwa, Iowa, is that not right?

A. Yes.

Q. Now, I will hand you a group of fifteen freight bills covering the period from February 4, 1952, to February 9,

1952, which show, do they not, a freight originating in [fol. 2331] the Chicago Commercial Zone, including Gary, Indiana, to Des Moines, Iowa. Will you examine those and see if that is correct?

A. That is correct.

Q. Now, in connection with the merchandise handled by your truck line on these shipments from the Chicago Commercial Zone to Des Moines as represented by these fifteen freight bills, do they not show that every one of the shipments handled by you during that period of time from the Chicago Commercial Zone, including Gary, Indiana, represent either a truckload, or substantially a truckload of steel from the point of origin to the point of destination at Des Moines?

A. Were there any under-truckloads.

Q. The smallest I found was a ten thousand pound item.

A. I think they all do except one here. One was an L. T. L. item.

Q. What was the answer?

Exam. Carpenter: All except one was an L. T. L. shipment.

By Mr. Nolan:

Q. And this shows steel. By that you mean fencing material, or fabricated steel of some kind, is that correct?

A. It could have been, yes.

Q. And this shows, among other things, the commodity carried, the date on which it was transported, and also shows the rate, is that not right, forty-six cents a hundred from Gary, Indiana, to Des Moines, Iowa?

[fol. 2332] A. Yes, sir.

Q. Now, among the freight bills you handed me was there not one freight bill on February 5, 1952, showing a shipment from Hammond, Indiana, to Kellogg, Iowa, showing the transportation of steel on that date, representing a truckload quantity of steel handled by your company on that occasion?

A. That is right.

Q. And that shows a revenue of forty-two cents from Hammond, Indiana, to Kellogg, Iowa?

A. That is right.

Q. Now, I will hand you what you have referred to as freight bills covering the operations of your company from February 4, 1952, to February 9, 1952, for freight handled by your company, and I will ask you if those freight bills do not represent shipments from the Chicago Commercial Zone, including Gary, Indiana, to Newton, Iowa, for the transportation of steel in truckload quantities?

A. They do.

Q. Those fourteen or fifteen freight bills show the movement of steel in truckload quantities?

A. Is there any less in there?

Q. I didn't find any less in there. This is off the record.

(Statement off the record.)

By Mr. Nolan:

Q. That is correct, these fourteen or fifteen freight bills show transportation by your company during that [fol. 2333] period of time, which were part of the freight bills which you say your bookkeeper pulled out of your freight bills for merchandise handled by you into the Iowa territory involved in this case from the Chicago Commercial Zone of steel in truckload quantities to Newton, Iowa?

A. Over a five day period.

Q. Over a five day period, yes. Among the freight bills which you have tendered for inspection, appear to be four freight bills covering the period, included in the period February 4, 1952, to February 9, 1952, for the transportation of freight by your company, and referred to by you in your direct examination, which appear to cover shipments from the Chicago Commercial Zone, including Gary, Indiana, to Davenport and Bettendorf, Iowa, which are contiguous cities, are they not, Davenport and Bettendorf? State whether or not those freight bills do not show the movement of steel from Gary, Indiana, or other points in the Chicago Commercial Zone, to Davenport and Bettendorf, Iowa.

A. They do.

Q. And is it not true that those four freight bills show that there were at least three truckload quantities of steel handled by your company under those freight bills? They represent truckload shipments, do they not?

A. They do.

Q. And then the fourth one shows it was handled on the 6th day of February, 1952, and showing 8,770 pounds of [fol. 2334] steel from Gary, Indiana, to Davenport, Iowa, and may that have been handled on one of the other trucks handling substantially a truckload?

A. This was an overflow.

Q. That was an overflow.

A. You can see that. It went with that one.

Q. Pro No. CO8124 represents the main shipment, and Pro No. CO8125 represents——

A. This 8,770 pounds is an overflow of freight bill CO-8124.

Q. And how did this overflow move, and when did it move?

A. It moved the same day because the bills are made out the same day, and they have been signed by the same company.

Q. Now, I notice here now, this shipment, on the principal shipment on February 6, 1952, Pro No. CO-8124, that shows a shipment from Gary, Indiana, to J. I. Case Company at Bettendorf, Iowa, is that right?

A. Yes.

Q. And that shows that was paid on February 21, 1952, whereas this overflow freight bill shows it was paid on February 16, 1952. What is your explanation for that?

A. I would have no way of telling. That is out of my department.

Q. You are just the boss, that is all. Well, now, what I am trying to get at, Mr. Wolter, is it fair to say that your operations from the Chicago territory into the Iowa territory represent primarily truckload quantities of merchandise in the steel and farm implement classification? [fol. 2335] A. Not necessarily, no.

Q. Well, can you find any freight bills showing any other kind of merchandise in any other quantity of merchandise

in these eighty-eight freight bills you present here for inspection?

A. That is right, I can't, but at that time of year when I picked out the freight bills, that was all that was moving at that time. Of course, I don't have my livestock hauled in——

Q. I am talking about the westbound operation. Do you haul livestock from the Chicago market back into the Iowa territory?

A. I have, but not very often.

Q. Some feeder stock when somebody doesn't get what they want for their cattle, they haul them back home. You have done that, but so far as these eighty-eight freight bills, Mr. Wolter, they represent truckload quantities in practically every instance, except maybe an overflow of steel and steel products?

A. That is all on those five days.

Q. And some fifty odd bills were to Ottumwa, Iowa, and the rest of them were to points we referred to as Davenport, Bettendorf, Newton, Kellogg, and Des Moines, isn't that true?

A. Yes, sir.

Q. And I believe you told Mr. Robinson, your attorney, those represented typical shipments handled by your company in the operation of your business?

A. Seasonable.

Q. Typical of the season business?

[fol. 2336] A. At that time of the year, yes, sir.

Q. What are you hauling?

A. Binder twine, tractors, steel, household goods, rendering works equipment and machinery.

Q. If you are hauling any binder twine out of the Chicago area into the Iowa territory, that would move in truckload quantities, would it not, ordinarily?

A. It depends on the price. Sometimes the dealers don't have enough money to buy a full load of binder twine. It is a high priced product. It runs into quite a lot of money.

Q. It does come out in substantial quantities?

A. If it is going to the jobber or dealer, it does.

Q. Well, farm equipment comes out to the Iowa territory in substantial quantities?

A. No, I just had a one track tractor.

Q. What is that, a "cat"?

A. Yes.

Q. What did that weigh?

A. 11,120 pounds.

Q. That is a pretty fair load, isn't it?

A. Well, it is 12,000, the L. T. L. weight was that the Midwest Motor Freight was on it.

Q. And where did that move to?

A. The International dealer at Corydon, Iowa.

Q. Corydon, Iowa. That was not on No. 6, then, was it, [fol. 2337] Corydon?

A. The last one I hauled.

Mr. Nolan: Oh, that is all.

By Mr. Howland:

Q. Mr. Wolter, how far is Albia from Des Moines?

A. Sixty-eight miles.

Mr. Nolan: That is all.

Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Robinson:

Q. Mr. Wolter, under your certificate you have authority to haul farm machinery parts, do you not?

A. That is right.

Q. As well as the farm machinery?

A. I do.

Q. And do you haul farm machinery parts?

A. I do.

Q. And do you haul the various commodities at various times of the year within the scope of your certificate?

A. I think we do.

Mr. Robinson: That is all.

Exam. Carpenter: Recross.

Mr. Nolan: Just a minute.

By Exam. Carpenter:

Q. Mr. Wolter, in getting out of St. Louis for points in Iowa, you tack your irregular service from Clark County with your regular route authority into Iowa?
[fol. 2338] A. Yes.

OFFER IN EVIDENCE

Mr. Robinson: We offer in evidence Exhibit No. 50.
Exam. Carpenter: Any objection?
Mr. Nolan: No objection.
Exam. Carpenter: The document is received in evidence as Exhibit No. 50.

(Intervenor's Exhibit No. 50, Witness Wolter, was received in evidence.)

Exam. Carpenter: Anything further? (No response.) You are excused, Mr. Wolter.

(Witness excused.)

Exam. Carpenter: We will adjourn until tomorrow morning at 9:30 a. m.

(At 5:40 p. m., May 21, 1952, hearing adjourned to 9:30 a. m., May 22, 1952.)

[fol. 2339] TRANSCRIPT OF PROCEEDINGS OF MAY 22, 1952

Exam. Carpenter: We will proceed.
Mr. Fowler: Mr. Smiley.

DON SMILEY was sworn and testified as follows:

Direct examination.

By Mr. Fowler:

Q. Will you announce your name?
A. Don Smiley.
Q. What is your residence?

A. Atlantic.

Q. With what company are you connected?

A. Four freight lines.

Q. What is the name under which you operate?

A. Smiley Transfer and Storage.

Q. That is located in Atlantic?

A. Yes, sir.

Q. What we have under review here is application of Rock Island Motor Transit Company for certain operating authority and the subject I want to review with you is the character of motor transportation service which is now available to the public in and around the territory of Atlantic, Iowa.

Now, what is the character of the business you run there at Atlantic?

A. Drayage and storage and moving.

Q. And do you handle any freight for railroads?

[fol. 2340] A. No, sir.

Q. Do you handle any freight for the Rock Island Motor Transit Company?

A. No, sir.

Q. Or the Rock Island Railroad?

A. No.

Q. Did you at any time handle——

A. I have not handled rail freight for two years.

Q. You mean you did up until a couple of years ago?

A. Until the Rock Island Motor Freight put on their own trucks.

Q. So for some time, at least, you did handle cartage work for the Rock Island Motor Transit Company?

A. Not the Transit Company, but the Rock Island Railroad.

Q. Does the Rock Island Motor Transit Company have their own trucks at Atlantic for pick-up and delivery?

A. Yes, sir.

Q. And I believe we have been told that those trucks handle both the Rock Island Motor Transit and railroad freight. Is that your understanding?

A. Yes, sir.

Q. And the Rock Island Motor Transit and the rail dock are at the same building?

A. Yes.

Q. And do you act as commercial agent or local agent for some motor carriers?

[fol. 2341] A. Yes, sir.

Q. Name those, please?

A. Watson, Des Moines Transportation, Bos Truck Lines and Iowa-Nebraska.

Q. Now, when you speak of Watson you refer to Watson Bros. Transportation Co., Inc., I think it is?

A. Yes.

Q. And Iowa-Nebraska refers to Iowa-Nebraska Transportation Company, Inc., Mr. Petersen's operation?

A. Yes, sir.

Q. Now, what character of a dock do you have there?

A. I have a cement floored dock and tile building.

Q. And is freight delivered to you or docked by the carriers you mentioned during various hours of the day?

A. Yes, sir.

Q. And if it should be delivered at night is there an arrangement so that they can unload it at your dock?

A. Yes, sir.

Q. As well as pick up?

Q. Yes, sir.

Q. In addition to the carriers you named that you represent are there other carriers operating in and out of Atlantic?

A. Just contract carriers and Rock Island Motor Freight.

Q. What is the type of shipment you handle for these several carriers you represent? I mean by that, are they [fol. 2342] minimum shipments?

A. No, sir. They run all the way from minimum to truckloads.

Q. They are small shipments running up to truckloads?

A. Yes, sir.

Q. With respect to Iowa-Nebraska Transporation Company, how frequently do they appear at your dock with freight inbound and to take freight outbound?

A. Twice a day.

Q. And from what direction do those trucks come? I mean by that, does that include shipments coming from Omaha into Atlantic territory?

A. Yes, sir.

Q. As well as Des Moines into Atlantic territory?

A. Yes, sir. Don't get me wrong. We don't take any intrastate.

Q. I understand that. It is interstate interlined Iowa, Nebraska at Des Moines?

A. Yes, sir.

Q. What is the fact you do handle shipments by Iowa-Nebraska-interstate shipments but originating Des Moines so far as physical handling is concerned?

A. Yes, sir.

Q. Can you give us a general idea of the number of shipments you would handle for Iowa-Nebraska Transportation Company in an ordinary day? Better take a week.

A. I would say an average of 20 to 25 a day. It would [fol. 2343] run around 100 to 150 a week in and out.

Q. Are you familiar with Mr. Meredith at Atlantic who runs a hardware and implement store?

A. Mr. Meredith? Yes.

Q. Do any of the carriers you represent perform transportation service for him?

A. Occasionally.

Q. Do you pick up any for him?

A. Yes, sir.

Q. And deliver inbound shipments to him?

A. Yes, sir.

Q. Are you familiar with Robinson Retail Hardware Store?

A. Yes, sir.

Q. Do you pick up and deliver shipments to him?

A. We deliver shipments once in a while. Outbound, if we have any it is seldom.

Q. I presume shipments for hardware and implement stores in Atlantic are almost predominantly inbound?

A. And run minimum to four to five thousand.

Q. Are you acquainted with Mr. Marshall of Atlantic Wholesale Grocery?

A. Yes, sir.

Q. They have their own truck?

A. Yes, sir.

Q. Do you nevertheless have occasion to perform trans-
[fol. 2344] portation service to them for your carriers?

A. In more ways than one. I have freight for them and we work back and forth. If he is in a jam I help him and if I am in a pinch he helps me. I have known of lots and lots of times when he was too busy and I unload for him.

Q. Do they have any substantial amount of freight inbound less truckload?

A. Yes, sir.

Q. And you handle some of that for your carriers?

A. Yes, sir, and truckloads too.

Q. Do you handle outbound shipments for them?

A. Occasionally.

Q. Are you familiar with Linke Chevrolet Company?

A. Yes, sir.

Q. Do you perform transportation service for them?

A. Occasionally on interstate shipments.

Q. Now, in addition to Atlantic do your operations extend to any of the smaller towns around Atlantic?

A. No, sir.

Q. They are just confined to Atlantic?

A. Yes, sir.

Q. Now, with respect to Iowa-Nebraska Transporation Company, have you had any complaint about that company not paying claims?

A. On just one occasion. That was on a mirror and they didn't feel they were responsible. It split at the time [fol. 2345] it was crated. The mirror was still in the frame.

Q. Aside from that have you had any complaints?

A. No, sir.

Q. Have you had any complaints with respect to C.O.D. charges?

A. Well, no, I never had any complaints on C.O.D. charges because most of the time they know it comes C.O.D. They know that.

By Mr. Howland:

Q. You mean the shipper?

A. Yes. The shipper tells them that.

By Mr. Fowler:

Q. Now, with respect to Des Moines Transporation Company. How frequently are their trucks in Atlantic at your dock?

A. They average four days a week.

Q. From which direction?

A. Very little out of Omaha or west. It is mostly out of the east.

Q. What type shipment do you handle for Des Moines Transportation Company?

A. General merchandise.

Q. Do they range from minimum shipments to carloads?

A. Yes, sir.

Q. And I believe you mentioned the Bos Truck Lines?

A. Yes, sir.

Q. How frequently are they at your dock?

A. Every night except Friday.

Q. From what direction?

[fol. 2346] A. Both directions.

Q. In other words, Bos Truck Lines to Atlantic handles Omaha shipments to that territory as well as shipments moving from the east?

A. Yes, sir.

Q. In addition to that you handle shipments for Watson Bros. Transportation Co., Inc.?

A. Yes, sir.

Q. How frequently are they there?

A. On an average three or four times a day.

Q. Now, the shipments you handle for these various carriers, please tell me if you know whether or not those shipments are shipments which come from points outside the State such as Chicago, Kansas City, Minneapolis and St. Paul?

A. I would say 99%. About the only thing intrastate is from Shenandoah and that has to go through Omaha.

Q. Anything from the Shenandoah vicinity is handled through Omaha and that makes an interstate shipment of it?

A. Yes, sir.

Q. You have observed shipments delivered to your dock

from origin points Chicago, St. Louis, Kansas City and eastern points?

A. Eastern points and western points.

Q. Could you give me some idea of the aggregate figure on shipments you handle—that you deliver we will say for the various carriers you represent for a day's period [fol. 2347] or a week's period, which ever you choose?

A. It varies from day to day. All the way from 10 to 80 or 90 thousand a day.

Q. You are speaking of pounds?

A. Yes, sir.

Q. In a normal day?

A. Yes.

Q. If broken down into shipments what will that be?

A. That will vary too. We will average 50 to 60 stops a day.

By Mr. Howland:

Q. That is for all carriers?

A. Yes, sir.

By Mr. Fowler:

Q. Is there a great deal of freight outbound from Atlantic?

A. Not too much. Western Popcorn Company and Voss Manufacturing and Walnut Grove Products and repairs moving back and forth.

Q. Do you pick up from those shippers for the carriers you represent?

A. Yes.

Q. And generally speaking where are those shipments destined?

A. All over the country you might say.

Q. To points outside the State of Iowa?

A. Yes, sir.

Q. Do you have any difficulty handling that type shipment?

A. No, sir.

Mr. Fowler: You may examine.

[fol. 2348] Cross-examination.

By Mr. Howland:

Q. Mr. Smiley, how large a building do you have there?
A. Well, at present the room I have is 60x40.
Q. That is warehouse and office?
A. No, that is just the dock—where we dock freight.
Q. How many pick-up and delivery trucks do you customarily operate?
A. Two.
Q. And you drive one of those yourself?
A. Occasionally, yes.
Q. And how many regular drivers or dockmen do you have?
A. Two.
Q. Those are full-time employees of yours?
A. Yes, sir.
Q. Do you have any office force?
A. Just my wife. She and I take care of it.
Q. You have a telephone, of course, there?
A. Yes.
Q. And you and your wife take care of incoming calls?
A. Yes, sir.
Q. You have a family, I suppose?
A. Yes.
Q. How many children do you have?
A. Five.
[fol. 2349] Q. What are their ages?
A. The oldest is 12 and the youngest is 5 months.
Q. And what are these pick-up and delivery trucks you have?
A. One has an 8x12 box on it and the other 8x14.
Q. Are they Fords or Chevrolets or what?
A. Ford ton and a half.
Q. And you use that equipment in whatever service is necessary?
A. Yes, sir.
Q. For your local cartage business or pick up there?
A. Yes, sir.
Q. And delivery for these other carriers?
A. Yes, sir.

Q. In large shipments, say about 5000 pounds and always in truckload shipments, is it not true that the road unit goes directly to consignees' place of business.

A. Occasionally. I mean some places they can't get a trailer in.

Q. If it can be physically accomplished.

A. Not always on five thousand. I don't even see the drivers unless it is a truckload lot. It is handled by me.

Q. On truckloads you are paid on a tonnage or weight basis for shipments you handle?

A. Yes, sir.

Q. On truckload lots the road driver usually takes that to the consignee's place of business and unloads?

[fol. 2350] A. Yes.

Q. Do you furnish anybody to unload it?

A. Always one man and sometimes two, depending on the situation.

Q. If truckload that is taken into account in connection with your compensation. Is that right?

A. Yes, sir.

Q. And, of course, ordinarly you wouldn't have—What will your day's business run if you don't have any truckloads—if it is all handled by your trucks?

A. It will average out. Very seldom we count truckloads because that is paid on a different basis than less truckload.

Q. The compensation is different?

A. It is rated differently.

Q Do you perform any work in connection with claims?

A. Yes. I make all inspections.

Q. Do you have claim blanks for these carriers?

A. Yes, sir.

Q. And in the case of Watson Bros. you send it to Omaha; Iowa-Nebraska Transporation to Avoca; Des Moines Transportation Company to Des Moines and Bos Truck Lines to Marshalltown?

A. Yes, sir.

Q. You have no tariff or rate service of any kind?

A. No.

Q. When was it you performed pick-up and delivery service for the Rock Island Railroad?

[fol. 2351] A. It started in March, 1946, and I believe in the spring of 1948 they took over. I wouldn't say sure on the date.

Q. Do you recall that at the time when you said they took over you were asking for some additional increase in that compensation?

A. We had talked about it. Yes.

Q. In other words, you thought you should have more money than you were receiving from the railroad?

A. They led me to believe that if things went up they would.

Q. The Rock Island Motor Transit Company has how many trucks in Atlantic?

A. Two.

Q. Two pick-up and delivery trucks?

A. They have three there, but I understand one goes to Harlan.

Q. But they have two on the street.

You are acquainted with Mr. Rice, I suppose?

A. Yes, sir.

Q. He is local agent there?

A. Yes.

Q. Does he have any clerks or anyone in the office?

A. Yes, he has a billing clerk.

Q. Do you have occasions to obtain rate or tariff information from Mr. Rice?

A. Very seldom.

Q. You have on some occasions?

[fol. 2352] A. I have on some things when someone wishes a rate, especially in the last six or eight months when there has been some uncertainty about it.

Q. Mr. Rice, of course, has tariffs?

A. Yes, sir.

Q. And rates of carriers are the same. That is Rock Island Motor Transit rates, generally speaking, are the same rates as rates of Iowa-Nebraska Transportation Company?

A. Yes, sir.

Q. I mean from similar destinations or similar points of origin?

A. Yes, sir.

Q. When did you start your representation of Bos Truck Lines?

A. That was 1947.

Q. And that has continued from 1947 to date?

A. Yes.

Q. And when did you start with Des Moines Transportation Company?

A. I believe that was in the latter part of 1948.

Q. Now, the Des Moines Transportation Company business that you handle at Atlantic is preponderantly volume shipments or truckload shipments, is it not?

A. No, sir.

Q. Is it not true that Des Moines Trans has a larger volume of truckload business than the other carriers you represent?

A. No, sir.

[fol. 2353] Q. Which is the largest carrier so far as your business is concerned in truckload quantities?

A. Well, I would say they run pretty close to the same. If it isn't I think Watson is the biggest.

Q. You think Watson is the biggest?

A. Yes, sir.

Q. Now, you refer to frequency of service and what time does Des Moines Transportation Company normally come into Atlantic with its trucks from the west?

A. Usually before I am there. 6:30 to 7:00 o'clock in the morning.

Q. And you have an arrangement whereby that freight from trucks coming through in the night is put in your warehouse?

A. Yes, sir. We don't leave it open. We have a combination lock.

Q. The drivers have keys to your warehouse?

A. Yes.

Q. How about service from the east—Des Moines coming to Atlantic?

A. Anywhere from 4:00, 6:00 to 6:30.

Q. In the morning you mean?

A. Yes, sir.

Q. So generally shipments by Des Moines Transportation Company are delivered during the night hours. Is that right?

A. 1,293,818 pounds.

Q. Tell what the total outbound was?

A. 435,353 pounds.

Q. And total inbound and outbound?

A. 1,729,171 pounds.

Q. Now, with respect to the same period of 1952, namely January 1, 1952, to April 1, 1952. Total inbound tonnage handled was what?

A. 1,130,043 pounds.

A. Total outbound?

[fol. 2376] A. 467,669 pounds.

Q. And total tonnage inbound and outbound?

A. 1,597,712 pounds.

Q. Will you tell us, if you know, the approximate relationship percentagewise between less truckload and truckload volume that was handled by you?

A. I would say 95% of shipments were less truckload.

Q. What percent of the shipments would you say were less than 5000 pounds?

A. I would say 85%.

By Exam. Carpenter:

Q. What is your position with Maher Bros. Transfer?

A. Office Manager.

Mr. Fowler: Inquire.

Exam. Carpenter: Let's take a short recess.

(Short recess.)

Exam. Carpenter: We will proceed.

Mr. Fowler: One other question.

By Mr. Fowler:

Q. Are you able to tell us what points in Iowa Motor Cargo serve in addition to Iowa City?

A. From observing freight on their equipment in our place and from talking with their drivers I understand they leave freight at Iowa City, take the balance of the load to Cedar Rapids, drop that unit, pick up another and go back to the Tri-Cities.

Q. Do you have a Montgomery Ward Store in Iowa City?

[fol. 2377] A. Yes, sir.

A. They all are.

[fol. 2354] Q. All of them?

A. All of them.

Q. All carriers?

A. Yes, all carriers do it.

Q. That is true also of Iowa-Nebraska Transportation Company?

A. Yes, sir.

Q. And about what time would the Iowa-Nebraska Transportation Company's trucks from Omaha get out there?

A. Coming out of Omaha he gets there from 10:00 o'clock on, depending on what time he gets out of Des Moines. He makes a turnaround there.

By Exam. Carpenter:

Q. 10:00 in the morning or night?

A. Night.

By Mr. Howland:

Q. That is true also of the westbound movment into Omaha?

A. Yes, sir.

Q. I mean anything coming from Des Moines?

A. Yes, sir.

Q. How long have you been acting for Iowa-Nebraska?

A. I started with them the middle of April, 1950.

Q. Middle of April, 1950?

A. Yes, sir.

Q. And you have continued up to the present time?

A. Yes, sir.

Q. And how about Watson Bros., when did you start with them?

[fol. 2355] A. At the same time.

Q. At the same time you did with Iowa-Nebraska?

A. Yes, sir.

Q. What type and character of shipments is the business of Bos Truck Lines? Do they have one particular type of business that is heavier than anything else?

A. No. Just less truckload running from minimum on up.

Q. Do they deliver meat to your dock?

Q. Do you take loads there from Kansas City?
A. Yes, sir.

Mr. Fowler: Inquire.

Cross-examination.

By Mr. Nolan:

Q. This freight you see on Poole Transfer is Minneapolis Freight for West Liberty, isn't it?
A. I couldn't say.
Q. It would be on a southbound truck. You wouldn't see freight on Poole Transfer from the east marked West Liberty, would you?
A. This is again from observation and listening to what the drivers say that it wasn't a load so they left it on and went to Cedar Rapids and delivered the freight on the way back.
Q. You don't know where that freight came from?
A. I know it was destined West Liberty.
Q. But you don't know the point of origin?
A. No.
Q. How long has Motor Cargo been coming into Iowa City? It has been very recent hasn't it?
A. I would say since early fall of 1951.
Q. And their operations are exclusively from points east of Chicago?
A. Yes, sir.
Q. Now, I assume that these exhibits were prepared from freight bills in your possession?
[fol. 2378] A. Yes, sir.
Q. Are you willing to produce those freight bills for inspection and examination?

Mr. Fowler: Wait just a minute. I suppose you are my witness and I have to protect you.
Off the record.

(Discussion off the record.)

Mr. Fowler: May I inquire of the witness as foundation for an objection?
Exam. Carpenter: Yes, go ahead.

A. No, sir.

Q. Most of the freight handled by Bos Truck Lines, is that what is referred to as dry freight in the trade?

A. Yes, sir.

Q. Is that true also of all of the other carriers?

A. We have a little meat with Watson and some perishables with Iowa-Nebraska—frozen foods.

Q. Where does that come from?

A. Omaha.

Q. Now, these carriers that you act for and the Rock Island Motor Transit Company are the only carriers that deliver or pick up shipments in Atlantic that you are acquainted with. Is that right?

A. Yes.

Q. You do no business for Merchants Motor Freight?

A. No, sir.

Q. And so far as you know does Merchants Motor Freight [fol. 2356] make deliveries of shipments in Atlantic?

A. Not that I know of. They haven't in the last few years. They did a number of years ago when I worked for Atlantic Wholesale.

Q. Was that mostly truckload?

A. Yes. Sugar out of the west.

Q. Do you see Red Ball Transfer?

A. They go through but don't stop.

Q. And is that true of some other carriers, On-Time Transfer Company, Prucka Transportation and Union Transfer?

A. Yes, sir.

Q. Quite a number go through on the highway, but never go into town. Right?

A. Yes, sir.

Q. I am not sure whether the record show it, but what is the approximate population of Atlantic now?

A. They say around 7500.

Q. When you referred to C.O.D. claims you were referring to your part of the delivery and collection of C.O.D's.?

A. Yes, sir.

Q. And on what basis are the payments made to you for the service that you perform? Is that on a weekly basis or monthly basis?

By Mr. Fowler:

Q. How much trouble would it be for you to gather up the freight bills from which you developed Exhibits 51 and 52?

A. It wouldn't be much trouble to gather them up, but from that point on I don't know how to answer.

Q. How voluminous would it be?

A. I would say it would cover the top of this desk and the width of a freight bill.

Exam. Carpenter: That would be about six inches high —the top of an ordinary desk and about six inches deep on the desk.

Mr. Fowler: I am going to instruct this witness to refuse to present these freight bills and in doing so I am well aware that admissibility of these exhibits is subject to objection.

By Mr. Nolan:

Q. As I understand it, Bob, you refuse to submit the freight bills from which Exhibits 51, 52 and 53 were pre- [fol. 2379] pared for inspection and examination by me or someone under my direction?

A. Yes.

Q. Now, isn't it true that Watson Bros. have their own pick-up and delivery in Iowa City?

A. They did up until about three weeks ago.

Q. And that is the reason no Watson Bros. shipments are shown?

A. Right.

Q. Have they abandoned their own local pick-up and delivery service? Have they terminated it?

A. They have abandoned their local pick-up and delivery service.

Q. Have you had any merchants in Iowa City complain to you about settlements on loss and damage claims particularly from McCoy Truck Lines?

A. Yes.

Q. And Iowa-Nebraska Transportation Company?

A. Not Iowa-Nebraska. No.

Q. Primarily McCoy Truck Lines?

A. We remit weekly to the companies.

Q. That is on your collections?

[fol. 2357] A. Yes, sir. The following week out of Watson Bros. on Friday we get our check. The others we just deduct.

Q. That is true of Bos Truck Lines?

A. And Des Moines Trans. and Iowa-Nebraska.

Q. With Watson Bros. you remit to Omaha and they pay you the following week?

A. Yes, sir.

Q. Now, you refer to Bos Truck Lines being in Atlantic every night except Friday. Is Bos Truck Lines there on Saturday and Sunday too?

A. It comes in on Sunday.

Q. But not Friday or Saturday?

A. Normally. Once in a while it comes in Saturday night after sundown.

Mr. Fowler: He is a Seventh-Day Adventist and won't work on Saturday.

By Mr. Howland:

Q. You said Watson Bros. was in on a daily basis. Do you mean daily except Saturday and Sunday?

A. They are in every day.

Q. Including Saturday and Sunday?

A. Yes, sir.

Q. Now, these two units you have, do you perform your local moving service with those?

A. No. I have a regular van for that.

Q. You have a household van?

[fol. 2358] A. Yes, sir.

Q. Do you use that for over-the-road service for household goods?

A. Yes, sir.

Q. If anyone was moving from Atlantic to Des Moines, would you perform that service?

A. Yes, sir.

Q. Is that van equipment owned by you?

A. Yes, sir.

Q. And you are also the agent for one of the household goods movers?

A. That is what is brought to my mind now.

Q. Was one of those complaints from Mr. Wagmueller of Barron Motors?

A. Yes.

Q. Now, you were asked about Hedrick Motor Transfer Line. That is a Burlington to Cedar Rapids operation, is it not, primarily?

A. I can't answer that. I know he does operate out of Chicago.

[fol. 2380] Q. Chicago to Burlington and from Burlington north to Iowa City and Cedar Rapids?

A. Sure, that's it.

Q. He is successor to the old Rieke Motor Freight Line?

A. Yes.

Q. Now, under your arrangement with these carriers do you get credit and do your records show outbound truckload quantities or shipments?

A. Yes. There is a record of each shipment.

Q. For instance if the Economy Advertising Company there shipped out a truckload of binding material, it has college annuals which it specializes in, and they moved out by one of these carriers, would that reflect in your tonnage record?

A. Yes.

Q. And a truckload of printed material by Moore's Business Forms, would that also show in your tonnage records?

A. Yes.

I would like to correct my first answer. There would be no book shipments in volume from Economy Printing Company.

Q. If it did move out your records would show that tonnage in your over-all tonnage records?

A. I thought you meant show up on this tonnage record.

Q. That is a seasonable movement that goes out later in the year?

A. True.

[fol. 2381] Q. But any other volume shipments sent by Economy Advertising or Moore Printing would reflect in your records here?

A. The Economy shipments would not reflect in that record here.

A. Watson.
Q. Watson Bros. Household Goods Movers?
A. Yes, sir.
Q. That is a separate company, of course?
A. Yes, sir.

Mr. Howland: I think that is all.
Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Fowler:

Q. Can you recall whether or not you have handled any shipments destined to Atlantic consignees from Paxton-Gallagher Company in Omaha?
A. Yes, sir, we do a lot of that freight.
Q. Do you recall handling any shipments destined to hardware and implement stores in Atlantic from John [fol. 2359] Deere Implement in Moline?
A. Yes, sir.
Q. Do you recall whether you have handled any shipments destined to merchants in Atlantic from Janney Semple Hill & Company in Minneapolis?
A. Yes, sir, we have.
Q. And without being any more specific about it, what is the fact whether or not, generally speaking, you handle shipments from Omaha, Kansas City, St. Louis and Chicago jobbers coming into your dock for re-delivery in town?
A. Yes, sir.

Mr. Fowler: That's all.

Recross examination.

By Mr. Howland:

Q. Mr. Smiley, have there been some occasions in which shipments have been delivered to you for interline with Rock Island Motor Transit Company to points either east or west of Atlantic?
A. No. I have never had anything of that nature.
Q. That is there have never been instances where ship-

ments have been delivered to you for interline with other carriers?

A. No, sir. I have never had any of those.

Q. All of the shipments that you handle are either destined to Atlantic or picked up in Atlantic for further transportation?

A. Yes, sir.

Q. Do you know whether or not any of these concerns [fol. 2360] make deliveries to Rock Island Motor Transit Company at Atlantic?

A. How do you mean?

Q. Would there be cases of shipments destined to places like Wiota, Brayton, Exira or Audubon?

A. Yes, sir.

Q. Do you have?

A. No. I thought you meant merchants in town.

Q. You don't know if there is any other general practice of that sort by other carriers?

A. I could say there isn't.

By Mr. Nolan:

Q. Who is your Secretary of the Chamber of Commerce in Atlantic?

A. Walker, I believe.

Q. Has he been there the last year or two?

A. About a year and a half.

Q. Do you know if he operates a claim service for members of his Chamber of Commerce?

A. A claim service?

Q. Regarding following up claims and damages?

A. Not to my knowledge.

Q. Do you know if he contacts Iowa-Nebraska Transportation Company direct on loss claims and damage?

A. Not to my knowledge.

Mr. Nolan: That's all.

Exam. Carpenter: Are there further questions?

[fol. 2361] Exam. Carpenter: Excused.

(Witness excused.)

lations given by him with reference to Exhibit 53, inbound and outbound tonnage handled by his company for the [fol. 2384] various carriers in Iowa City for the period January 1, 1951, to April 1, 1951, and from January 1, 1952, to April 1, 1952, for reason of refusal of witness to produce the supporting data and records from which said record was tabulated for purposes of inspection and examination in connection with examination of such figures testified to by the witness. The record shows here tabulations of figures on Exhibits 51 and 52, said Exhibits 51 and 52 being prepared from freight bills in his custody and for reason the testimony is incompetent and immaterial when supporting data is not made available for inspection.

Mr. Howland: We join in the motion and also make grounds of that motion as objection to the offer of Exhibits 51, 52 and 53.

Exam. Carpenter: Your motion did not go to Exhibits 51 and 52, Mr. Nolan?

Mr. Nolan: It did by reference.

I understand he has not offered Exhibits 51, 52 and 53.

Exam. Carpenter: Right.

Mr. Nolan: We will make appropriate objection at that time. This is for purposes of striking the witness' testimony for the tabulation of figures.

Exam. Carpenter: I am asking if the motion goes to Exhibits 51 and 52. Mr. Howland included those. You did not.

Mr. Nolan: I did.

Exam. Carpenter: You mentioned Exhibit 53 only.

Mr. Nolan: I include Exhibits 51 and 52 in the motion. [fol. 2385] Any testimony of the witness regarding any figures shown with reference to Exhibits 51, 52 and 53 for reasons I stated that the witness refused to produce supporting data. It is wholly incompetent and prejudicial.

Mr. Fowler: No objection was interposed to any question to the witness giving tonnage on his own personal knowledge.

Mr. Nolan: Up to that time there had been no refusal to submit supporting data.

Mr. Fowler: I have not offered Exhibits 51, 52 and 53 and the discussion is wholly irrelevant.

ROBERT BOTHELL was sworn and testified as follows:

Direct examination.

By Mr. Fowler:

Q. Will you announce your name?
A. Robert Bothell.
Q. Your address?
A. Iowa City.
Q. With what organization are you connected?
A. Maher Brothers Transfer.
Q. And it is located at Iowa City?
A. Right.
Q. In what business is Maher Brothers Transfer engaged?
A. Local drayage, local moving and moving household goods interstate.
Q. How long have Maher Brothers been in business?
A. Since 1926.
Q. You do, as I understand it, general local cartage business in Iowa City?
A. Yes, sir.
Q. And in addition to that you act as agent on a commission basis for several other carriers?
A. Right.
Q. Do you act as cartage agent for any railroad at the [fol. 2362] present time?
A. No.
Q. Do the railroads in Iowa City have their own facilities for pick-up and delivery?
A. Crandic, that is the interurban, has its own and Rock Island Railroad is, as I understand it, delivered by the transit equipment.
Q. For what carriers do you act in the capacity of agent?
A. Poole Transfer, Watson Bros. Transportation Company, Inc., McCoy Truck Lines, Des Moines Transportation Company, Knaus Truck Lines, Iowa-Nebraska Transportation Company and Motor Cargo.
Q. Now, with respect to Poole Transfer, I believe that company has headquarters at Muscatine?
A. Muscatine, Iowa.

Exam. Carpenter: We will withhold ruling until the offer.

Redirect examination.

By Mr. Fowler:

Q. With respect to Moore Business Forms. What is that company?

A. That is a company that prints register tickets, bills of lading, sales tickets, etc..

Q. Is Economy-advertising connected with them or is it a separate institution?

A. Separate.

Q. Do you perform any transportation service for Moore Business Forms?

A. Yes.

Q. Inbound?

A. Yes, sir.

Q. And outbound both?

[fol. 2386] A. Definitely outbound.

Q. And carriers you represent do handle the business of Moore Business Forms inbound as well as outbound?

A. Yes.

Q. What does Economy Advertising make?

A. Calendars, novelties, highschool and university annuals.

Q. Do you handle shipments to them inbound?

A. Yes.

Q. Any outbound?

A. Only truckload shipments of annuals and yearbooks. We are not able to handle their less truckload shipments.

Q. Why?

A. Because a goodly share of them go intrastate. They do not care to split their tonnage with any other carriers.

Q. There is no reason why you couldn't handle them if tendered you on an interstate movement?

A. No.

Q. There is a substantial volume of intrastate movement?

A. Yes.

Mr. Fowler: At this time I offer in evidence——

Q. Can you tell us generally, if you know, the scope of their operation?

A. Chicago, Tri-Cities, Muscatine, Minneapolis and the Twin Cities with delivery to points enroute.

Q. Is it true, if you know, that their physical operation from Muscatine to the Twin Cities is through Muscatine and Cedar Rapids?

A. Yes, sir.

Q. What are the type of your facilities there? Do you have a dock?

[fol. 2363] A: We have a drive-in dock—inside under cover for unloading, open 24 hours a day, seven days a week.

Q. If shipments are delivered to your dock by carriers during the night are your facilities available to them?

A. We have a night man there.

Q. And that is true with respect to any freight to be picked up?

A. Right.

Q. What do you have in the way of motor equipment?

A. We have four furniture vans, two of them are semis and two are straight vans. We have five pick-up and delivery trucks, ton and a half type. We have three pick-up trucks of ton type. We have two truck tractors and flat bed semi-trailer.

Q. Now, do you perform—do you hold any operating authority from the Interstate Commerce Commission in your own name?

A. Only household goods.

Q. Do you do local cartage or drayage business to any of the surrounding towns to Iowa City?

A. We do not.

Q. Now, you do go to Coralville, do you not?

A. Yes we do. Coralville is within the legal mile limit that is limited from the post office of a town of a certain size.

Q. In other words, freight from your dock destined to merchants in Coralville would be delivered by you in cartage service?

A. Yes.

[fol. 2364] Q. Do you have some of that?

It has been suggested that I clear up the Watson situation. I think the impression was left from the testimony that they had discontinued pick-up and delivery service in Iowa City.

By Mr. Fowler:

Q. What is the situation with respect to that?

A. If I can explain it in history form from the time of [fol. 2387] their first starting to stop in Iowa City years ago. We had been their delivery agent up until two years ago. They put in their own terminal and break for drivers and thought they could handle pick-up and delivery and did up until three weeks ago. They then discontinued it with their own employees and equipment and have now turned the business of pick-up and delivery back to us.

Q. It is still being performed, but by your company rather than by them with their own employees?

A. Yes.

OFFERS IN EVIDENCE AND OBJECTIONS THERETO

Mr. Fowler: At this time I offer in evidence Exhibit 51 which bears the description "Tonnage On Motor Freight For 1-1-51 to 4-1-51"; Exhibit 52 with similar information developed for the period January 1, 1952, to April 1, 1952; and Exhibit 53 being a typewritten page, summary of information on Exhibits 51 and 52.

Mr. Nolan: To which Exhibits intervenors object as being wholly incompetent, hearsay, not the best evidence and for further reason of refusal on the part of the witness to produce the records and freight bills from which said exhibits were compiled for inspection and examination and for further reason that said exhibits without supporting data renders, at least the cross-examination of the witness, wholly irrelevant, immaterial and highly prejudicial.

Mr. Howland: We will join in the objection as made by Mr. Nolan.

[fol. 2388] Exam. Carpenter: I will overrule the motion and objections, but refusal of the witness to produce the data will be given consideration when determining what

A. Yes, sir.

Q. Is it quite substantial?

A. Yes.

Q. What is the general character of freight which is delivered to your dock by various motor carriers? I mean is it all small shipments, all truckload, or general run of motor freight?

A. It is predominantly less truckload. I mean shipments less than 5000 pounds.

Q. Does it consist of a substantial number of minimum shipments—small shipments?

A. It definitely does.

Q. Are you acquainted with Howard P. Jacobs who runs a plumbing company in Iowa City?

A. I am not personally acquainted with him.

Q. Are you familiar with the Nagle Lumber Supply in Iowa City?

A. Yes.

Q. Do you have occasion to deliver shipments to or pick-up shipments from them for your various carriers?

A. They bring more shipments to our dock to go outbound than we pick up. We deliver a lot of inbound shipments to them.

Q. Are you acquainted with Mr. Message who runs a wholesale plumbing and heating company in Iowa City?

A. I don't know him. I know the firm.

Q. You know the firm he is connected with?

[fol. 2365] A. I know the Plumbers Supply of Iowa City.

Q. Do you have occasion to pick up and deliver for them?

A. We have never picked up shipments outbound, but have delivered a great many inbound.

Q. Do you know the Slager Implement and Hardware of Iowa City?

A. Yes, sir.

Q. Do you have occasion to pick up or deliver to them?

A. I don't recall picking up, but we do deliver to them.

Q. Are you familiar with Barron Oil Company of Iowa City?

A. Yes, sir.

Q. What is the fact as to whether you have ever picked up there?

weight to give the exhibits. I will not receive them in evidence at present until we get photostatic copies.

Recross-examination.

By Mr. Nolan:

Q. These carriers for which you are agent at Iowa City, none of those carriers perform any intrastate service in there and out of Iowa City, do they?

A. No.

Mr. Nolan: That is all.

Exam. Carpenter: You are excused.

(Witness excused.)

JOSEPH E. LUDDEN was sworn and testified as follows:

Direct examination.

By Mr. Fowler:

Q. Will you announce your name?

A. Joseph E. Ludden, 2130 S Avenue, LaCrosse, Wisconsin.

Q. With what organization are you connected?

A. Gateway Transportation, Lacrosse, Wisconsin.

Q. In what capacity?

A. Assistant Secretary of that company.

Q. And how long have you been associated with the company?

A. Since September, 1948.

Q. Are you familiar with the scope of its business and operations?

[fol. 2389] A. It is one of my duties to care for authority and appear at Interstate Commerce Commission hearings and hearings before other regulatory bodies.

Q. Give the number of your operating authority?

A. MC-80430. I might also state in that connection that Gateway Transportation is a common carrier of general commodities with the usual exceptions operating over regular routes.

A. Never.

Q. What is the fact as to whether you have delivered inbound?

A. We have delivered a great number of shipments.

Q. Are you familiar with Mrs. Dan Fiesler who runs Dan's Wholesale Foods in Coralville?

A. Yes, sir.

Q. Have you ever picked up outbound shipments for her?

A. Never.

Q. What is the fact with respect to inbound?

A. We deliver considerable merchandise to them.

Q. What is the town immediately east from Iowa City on U. S. Highway 6?

A. West Liberty.

Q. Do you know anything about the availability of motor [fol. 2366] carrier service at the present time serving West Liberty other than the Rock Island Motor Transit Company?

A. The only one I know of is Poole Transfer and the reason I know that is they have freight on their trucks to deliver there and they deliver apparently direct.

Q. What is the next town immediately east from West Liberty?

Mr. Howland: On Highway 6?

Mr. Fowler: Yes.

Mr. Howland: That would be Atalissa.

By Mr. Fowler:

Q. Do you know if Poole Transfer serves Atalissa?

A. I do not.

Q. Do you know anything about motor carrier service at Durant, Stockton or Walcott?

A. No.

Q. So far as you know Poole Transfer does serve West Liberty because you see that freight on their trucks?

A. Yes, sir.

Q. How frequently does Poole's equipment arrive at your dock?

A. That would be at least three trailers a day.

Q. Coming in from all directions?

Q. Do you have with you a map which would depict the general scope of operations of your company?

A. I do.

Mr. Fowler: At this time I would like to have marked for identification advertising map headed "Gateway Transportation Company" and with typical markings showing operating authority.

Exam. Carpenter: It may be marked Exhibit 54 for identification.

(The map referred to was marked as "Intervenor's Exhibit No. 54, Witness Ludden," for identification.)

By Mr. Fowler:

Q. Will you examine Exhibit 54 and tell what it is?

A. It is what we call a point list map which portrays the points authorized in interstate commerce to Gateway Transportation Company. On the front side it shows some of the points authorized to be served along with terminal points in the upper right hand corner. On the reverse side [fol. 2390] it shows other points authorized to be served by Gateway Transportation Company.

Q. With respect to operations of Gateway Transportation Company which appears to be also known as Gateway City Transfer Company, Inc., and limiting inquiry to points located on Highway 6 in the State of Iowa, first does Gateway hold any authority to points located on U. S. Highway 6 in the State of Iowa?

A. Right, they do.

Q. Let us take the reverse side of the map, Exhibit 54, and I notice in the third column you have points listed in Iowa and if I am correct the Town of Altoona, is located on U. S. Highway 6; the Town of Colfax is on U. S. Highway 6; Des Moines is on U. S. Highway 6. Do you know of any other points?

Mr. Howland: Grinnell and Iowa City.

By Mr. Fowler:

Q. Grinnell, Iowa City——

A. Newton and Kellogg.

A. At least three trailers a day.

Q. That would be from Minneapolis?

A. Yes, sir.

Q. From Chicago?

[fol. 2367] A. From Chicago by way of Muscatine and the Tri-Cities and one out of the Tri-Cities.

Q. So Poole Transfer handles shipments moving from Minneapolis destined to the merchants in Iowa City?

A. Right.

Q. If you know can you tell us the elapsed time on shipments from Minneapolis to Iowa City?

A. Overnight and to my knowledge they are the only carrier giving overnight service from the Twin Cities into Iowa City.

Q. With respect to Chicago shipments handled by Poole Transfer, if you know give the elapsed time?

A. That will vary. It is usually next day's delivery—approximately 9:00 o'clock at our dock.

Q. With respect to shipments moving out of the Tri-Cities in interstate and those handled through Muscatine to Iowa City?

A. I can't say if routed that way.

Q. What is the elapsed time?

A. That is same evening.

Q. Does Poole Transfer handle all type shipments, minimum to *to* volume shipments?

A. Oh, yes, sir.

Q. I believe you also—just a moment. Do you recall ever handling any shipments originating at the Twin Cities from Janney Semple Hill & Company to Iowa City?

A. Yes, but not recently.

[fol. 2368] Q. Do you handle any shipments for your carriers from the John Deere firm?

A. Yes. Implement parts.

Q. You do?

A. Not John Deere, but McCormick.

Mr. Howland: That is International.

By Mr. Fowler:

Q. But you do handle implement parts originating in the Tri-Cities to Iowa City?

Q. Newton, Iowa. Is Kellogg on the list?
A. Yes.

By Mr. Nolan:

Q. Where?
A. No, it isn't.

By Mr. Fowler:

Q. With respect to——

Exam. Carpenter: The list of Iowa points starts in the middle of column 3 and continue on to column 4, do they not?

Mr. Fowler: Correct.

By Mr. Fowler:

Q. With respect to operations in interstate commerce in Iowa and particularly in the vicinity of Des Moines, how [fol. 2391] recently has your company established terminal facilities in Des Moines?

A. February 1, 1952, we took over the old Bruce terminal at Fifth and Elm in Des Moines. We now have a Des Moines terminal manager, a solicitor, two office employees, a garageman and two city drivers.

Q. So it is fair to say that your operations in interstate commerce in this immediate area are in process of development at the present time?

A. We have just engaged a drayman at Newton within the last three weeks. Hal Leonard doing business as Merchants Transfer. We anticipate in the very near future getting draymen at Ottumwa, Pella and possibly Grinnell, Iowa.

Q. Do you have any plans with respect to development of terminal facilities at Ottumwa, Iowa?

A. Drayman.

Q. Now, if I am correct, in this immediate area you have recently established a terminal at Des Moines?

A. Right.

Q. And you propose to establish commission agents at the points just mentioned?

A. Yes, sir.

Q. Take Des Moines Transportation Company next. How frequently is their equipment at your dock?

A. I would say twice a day.

Q. And do you recall or can you tell us whether or not you handle for that company shipments originating Omaha and destined Iowa City?

A. Yes, sir.

Q. And originating Chicago destined Iowa City?

A. Right.

Q. And do you know whether or not you handle for Des Moines Trans. any freight interlined connecting carriers' points originating at points east, north and west?

A. Yes, sir. I know we do.

Q. Is that minimum as well as volume shipments?

A. Right.

Q. The Iowa-Nebraska Transportation Company, how [fol. 2369] frequently are they at your dock?

A. I would say they average three times a week.

Q. And what type shipments do they handle?

A. Mostly all less than 5000 pound shipments—minimum to 5000.

Q. Can you tell us whether or not that is shipments originating Omaha destined Iowa City?

A. Yes.

Q. And Chicago destined Iowa City?

A. Yes.

Q. And interconnecting line traffic from other points out of the State?

A. Yes, sir.

Q. Now, take Motor Cargo. How often or how frequently is their equipment at your dock?

A. Approximately three times a week.

Q. And are those small shipments as well as volume shipments?

A. Yes, sir.

Q. And originating Chicago and eastern points?

A. Mostly eastern points. I don't recall one coming out of Chicago. Mostly eastern points.

Q. The traffic you handle then for Motor Cargo is almost entirely traffic originating in the eastern part of the country?

A. And other points we are authorized to serve over Highway 6 and 163 running south out of Des Moines, if traffic warrants that.

Q. In addition to the Iowa area about which we have been [fol. 2392] talking, do you have terminal facilities at the Twin Cities?

A. We do.

Q. At Chicago?

A. Yes, sir.

Q. St. Louis?

A. St. Louis.

Q. And do you serve Kansas City?

A. No.

Q. Omaha?

A. No. St. Louis is the southermost point and Des Moines, Chicago, St. Paul and Mankato.

Q. Are you authorized to serve Dubuque?

A. Yes and we have a terminal there.

Q. Clinton?

A. And Clinton.

Q. What is the situation at the Tri-Cities?

A. We operate through the Tri-Cities into Chicago, but have no authority there.

Q. Do you not serve the Tri-Cities?

A. We do not serve the Tri-Cities.

Q. What is the fact as to whether you would accept and perform a transportation service on traffic tendered to you at any point on your system destined to any point authorized to be served by you in this Iowa area which is involved directly or indirectly in this application as soon as you have facilities established?

[fol. 2393] A. We intend to. That is the point of opening them.

Q. That service will be available to the general public with respect to minimum as well as volume shipments?

A. Absolutely.

Q. Does your company operate any so-called local distribution or peddle facilities in other areas in which you operate?

A. Yes. I think we are probably one of the biggest peddle operators in this part of the country within our authority.

A. The eastern part of the country by-passing Chicago, yes.

Q. Now, McCoy Truck Lines. How frequently are they at your dock?

[fol. 2370] A. I would say four times a week.

Q. What kind of traffic do you handle for them?

A. Mostly shipments less than 5000 down to minimum.

Q. Are origin points for those shipments mostly Chicago?

A. Chicago and through Chicago.

Q. And eastern interline freight. Correct?

A. Yes, sir.

Q. Now, Watson Bros., how frequently are they at your dock?

A. I would say they would average at least three a day.

Q. And the type of traffic handled through you is similar to that we have been talking about?

A. Right.

Q. And origin points on those shipments, have you observed whether any originated in Kansas City?

A. Yes, sir.

Q. And connecting line carriers from Kansas City?

A. Right.

Q. From Omaha?

A. Yes, sir.

Q. Chicago?

A. None.

Q. From St. Louis?

A. Yes, sir.

Q. The Twin Cities?

A. Yes, sir.

[fol. 2371] Q. And in addition to shipments which originate at points on their line do they tender to you for delivery in Iowa City off-line shipments which have been tendered them by connecting carriers?

A. Yes, sir.

Q. And Knaus Truck Lines, Inc., how frequently is their equipment at your dock?

A. About four times a week. Let me correct that. The outbound and inbound will average—there will be four in picking up and four out.

Q. And in general is the traffic handled of the same description as the others?

We have peddle operations in southern Minnesota; we have out of LaCrosse, Wisconsin, Madison, Wisconsin, Janesville, Wisconsin, Waterloo, Iowa, and out of Chicago.

Q. And what is the fact whether or not you intend to perform such local distribution or peddle service to Iowa points when facilities are established?

A. We will do that and we did it in the past when we operated in Des Moines.

Q. Do you operate a motor carrier service from Chicago to Des Moines?

A. Not at the present time. We don't have that operation as yet.

Q. Do you have a Twin Cities operation?

A. Via LaCrosse.

By Mr. Howland:

Q. Twin Cities-Des Moines?

A. Yes, sir.

By Mr. Fowler:

Q. Do you have a St. Louis-Des Moines operation?

[fol. 2394] A. Daily and another operation out of Des Moines for Milwaukee-Wisconsin.

Q. What is the fact whether or not if traffic of a general character were tendered to you at St. Louis for destination to any point located on U. S. Highway 6 that you are authorized to serve, you would accept that shipment and perform the transportation service?

A. We would be very happy to. We are not operating to capacity from St. Louis to Des Moines.

Q. And with respect to any traffic tendered you by connecting carriers at St. Louis destined to points in Iowa on U. S. Highway 6, would that likewise be handled in the same manner?

A. Yes, it would.

Q. What is the situation with respect to similar question if directed to traffic at any point served by you in Minnesota and Wisconsin destined to any point in Iowa on U. S. Highway 6 that you are authorized to serve?

A. Yes, sir.

Q. And does it include freight originating on their line and freight tendered them by connecting carriers?

A. Yes, sir.

Q. In addition to the carriers which you have mentioned can you tell us whether or not there are any other motor carriers serving Iowa City besides the Rock Island Motor Transit Company having their own facilities there?

A. None have their own facilities.

Q. What arrangements do Keeshin Freight Lines have in Iowa City?

A. None to my knowledge.

Q. Are there any others?

A. Hedrick Motor Transfer and Western Transportation [fol. 2372] Company and Gateway Transportation Company.

Q. In other words, the Hedrick Motor Transfer is a carrier located at Burlington, Iowa?

A. Yes.

Q. Does it serve Iowa City?

A. Yes, sir.

Q. And Western Transportation Company is a Chicago operator and does serve Iowa City?

A. Yes, sir.

Q. And Gateway Transportation Company at LaCrosse, Wisconsin?

A. Yes, sir.

Q. And they have their own service there?

A. Not their own terminal, but they have service at a cartage terminal similar to us.

Q. What is that name?

A. Thompson Transfer.

By Mr. Howland:

Q. Do all of these concerns dock there?

A. Gateway and Western Transportation at Thompson's; Hedrick Motor Transfer at Iowa City Transfer. Merchants Motor Freight comes into Iowa City or at least receive freight in truckload lots.

A. We would take it. We have performed service to some of those points in the past.

Mr. Fowler: You may inquire.

Cross-examination.

By Mr. Nolan:

Q. How would your company handle a hundred pound shipment of hardware from Minneapolis, Minnesota, to [fol. 2395] Colfax, Iowa?

A. It would be handled in one of two ways. It would either come down on the Twin Cities-St. Louis run and break at Cedar Rapids and be handled Cedar Rapids to Des Moines or break at Waterloo and be handled from there to Des Moines.

Q. How would that shipment be delivered to destination?

A. Right now it could be interlined or handled direct.

Q. In all probability it would be interlined with some carrier making Colfax?

A. It probably would.

Q. Is the same thing true as to a shipment of that size destined Grinnell from Minneapolis?

A. From Minneapolis?

Q. Yes.

A. No, I don't think so. I think it would be handled direct out of Des Moines due to the fact we pick up from the drayman every day at Newton.

Q. Do you know where Grinnell is located?

A. East of Newton.

Q. How many miles?

A. I can't tell you exactly how many—maybe 25 or 26.

Q. You say you have a truck that goes to Newton every day?

A. A minimum of three times a week.

Q. If you had a hundred pound shipment from Minneapolis destined Grinnell that would be delivered by your [fol. 2396] truck that goes to Newton to pick up freight at Newton?

A. It could be that way or on the Des Moines-Milwaukee route and dropped off. That goes over Highway 6 to Iowa

By Mr. Fowler:

Q. As I understand it Western Transportation and Gateway have as cartage agent, Thompson, and Merchants Motor Freight and Hedrick Motor Transfer are associated with Iowa City Transfer?

[fol. 2373] A. Yes.

Q. The Motor Cargo is a concern with headquarters at Akron, Ohio?

A. Yes, sir.

Mr. Fowler: Off the record.

Exam. Carpenter: Off the record.

(Discussion off the record.)

By Mr. Fowler:

Q. Mr. Bothell, did you prepare at our suggestion an exhibit to develop the inbound and outbound tonnage and the total tonnage handled by your company for these carriers you have mentioned for the period January 1, 1951, to April 1, 1951?

A. I did.

Q. And did you prepare a similar exhibit developing similar information for the period January 1, 1952, to April 1, 1952?

A. I did.

Mr. Fowler: I would like to have permission to have the document which bears the description "Tonnage On Motor Freight For 1-1-51 to 4-1-51" marked for identification.

Exam. Carpenter: It may be identified Exhibit 51.

(The document referred to was marked as "Intervenor's Exhibit No. 51, Witness Bothell," for identification.)

Mr. Fowler: I would like to have marked as Exhibit 52 a similar exhibit bearing the description "Tonnage On Motor [fol. 2374] Freight For 1-1-52 to 4-1-52."

Exam. Carpenter: It may be identified Exhibit 52.

(The document referred to was marked as "Intervenor's Exhibit No. 52 Witness Bothell," for identification.)

Mr. Fowler: I would like to have the document which appears to be on letterhead of Maher Bros. Transfer marked

City, thence to Cedar Rapids and over to Dubuque and into Wisconsin.

Q. Do you mean to tell the Commission that you would stop that truck at Grinnell to drop off a hundred pound shipment—that over-the-road truck to Milwaukee?

A. We do every day.

Q. When was the last time you have had any shipment to Newton of any size less than 10,000 pounds?

A. I can't answer.

Q. To Grinnell?

A. I can't answer that.

Q. Or Colfax?

A. I can't answer that.

Q. Now, how about some drop shipment destined Iowa City from some out of State point your company operates —for instance Milwaukee. How would that move to Iowa City?

A. It would move LaCrosse and on Des Moines-St. Louis run and be dropped off.

Q. It would be dropped from the line truck?

A. Undoubtedly.

Q. When was the last time you have had a shipment to Iowa City?

A. Of my own personal knowledge I can't answer that.

Q. Out of the forty some points between the Tri-Cities [fol. 2397] and Des Moines, Iowa, your company holds authority only for Altoona, Colfax, Des Moines, Grinnell, Iowa City and Newton. Is that right?

A. The points shown on the map. That's right.

Q. Now, how many years did your company have an embargo on service into Des Moines?

A. I can't tell you how many years, but I think we closed the terminal late in 1943 in Des Moines in compliance with general O.D.T. order requesting carriers to conserve wherever possible wherever there was duplication with other carriers—to conserve on personnel and equipment.

Q. You closed because you didn't have good business at Des Moines, didn't you?

A. They said there was good business here.

Q. Aren't you here trying to recapture the Des Moines-St. Louis business?

for identification. It apparently is a summary of the information which appears on Exhibits 51 and 52.

Exam. Carpenter: It may be marked for identification as Exhibit 53.

(The document referred to was marked as "Intervenor's Exhibit No. 53, Witness Bothell," for identification.)

By Mr. Fowler:

Q. Now, I direct your attention to the document marked Exhibit 51 and ask you to state whether or not that is an exhibit that you prepared about which you just testified?

A. I had it prepared.

Q. Was it prepared under your supervision?

A. Yes, sir.

Q. Can you tell us whether or not that correctly reflects the situation as it exists on your regular records?

A. Yes, sir.

By Mr. Howland:

Q. That is pounds of freight?

A. Yes.

By Mr. Fowler:

Q. Obviously where the description appears at the top [fol. 2375] of the exhibit "Poole" refers to Poole Transfer; "Des Moines" refers to Des Moines Transportation Company; "Knaus" to Knaus Truck Lines; "Ia-Nebr" to Iowa-Nebraska Transportation Company and "McCoy" to McCoy Truck Lines?

A. Yes, sir.

Q. Is Exhibit 52 a similar document for the same period of 1952?

A. To the best of my knowledge it was taken directly from our records.

Q. Is Exhibit 53 a summary of Exhibits 51 and 52?

A. Yes, sir.

Q. Now, merely for the record and from your own knowledge, will you tell us what the total inbound tonnage handled by you for these carriers was for the period January 1, 1951, to April 1, 1951?

A. No, I can't say that. We serve Des Moines and all points we are presently authorized to serve.

Q. Isn't it a fact you have come back to Des Moines to regain that business and particularly the St. Louis operation?

A. No. We want to serve Des Moines in connection with all other points we are authorized to serve.

Q. Do you still have in effect minimum 10,000 pound shipments on your operation on any point?

A. No.

[fol. 2398] Q. Sure of that?

A. No.

Q. You say you do some peddle out of Waterloo?

A. Right.

Q. It doesn't have any connection with points on U. S. Highway 6?

A. No. It goes to LaCrosse.

Q. Operation from Waterloo to LaCrosse?

A. Right.

Q. Don't you have any Iowa intrastate authority on U. S. Highway 6?

A. No. No Iowa intrastate authority at all.

Q. You say you do not operate out of Chicago?

A. Not at the present time, but we plan to.

Q. Did I understand you to say you have no interstate authority into or out of the Tri-Cities?

A. Right.

Q. I mean Davenport, Rock Island, Moline, East Moline, Silvis and Bettendorf.

Now, you say a hundred pound shipment from Minneapolis to Colfax, Iowa, you might deliver that yourself, but you would be more apt to give it to another carrier. Right?

A. It could be either way.

Q. And you have conducted interline with Rock Island Motor Transit Company over a number of years?

[fol. 2399] A. True.

Q. And still do?

A. Yes.

By Mr. Howland:

Q. Wasn't there a period of time following the war and continuing up to approximately a year ago when Gateway Transportation Company was embargoing shipments of less than 10,000 pounds to most Iowa points?

A. That embargo was released in August, 1950.

Q. About how long was it on prior to that time?

A. I can't answer that. I tried to find out before I came down here. I know there was an embargo prior to that that was virtually the same, but that was lifted when we opened the Dubuque terminal in 1949.

Q. But it is true that you didn't conduct any operations on U. S. Highway 6 within the State of Iowa for a period of approximately 8½ years?

A. No, that is not true. We came in here on volume shipments.

Q. But you didn't have a terminal in Des Moines?

A. No.

Q. You were handling truckload shipments and volume shipments—I take it you mean 10,000 pounds and above?

A. Right. It was very spasmodic, but it was done.

Q. There wasn't any pretense or effort—you didn't render a regular service into Iowa points on a scheduled operation?

A. You are talking about points——

[fol. 2400] Q. On Highway 6.

A. Right.

Q. And you are not rendering any scheduled operation between points on U. S. Highway 6 at the present time?

A. Well, Iowa City and Newton and Des Moines would be about all.

Q. But that service is from northern points?

A. Iowa City is served on the north-south operation.

Q. In other words, you don't have any east-west operation on Highway 6, do you?

A. Not yet and we won't until we open Chicago.

Q. What is your company's authority as far as points in Illinois—over what route do you operate out of Chicago?

A. To what point?

Q. To the Tri-Cities.

A. I think it is Highway 34.

Q. 34 and 92?

A. 34 and 92 to the Tri-Cities; 6 to Iowa City and thence to Des Moines.

Q. There never has been any time you have operated a peddle service on U. S. Highway 6 to Iowa points?

A. It is my understanding, and this is hearsay, but it seems they did peddle out of Des Moines—one south on 163 and east on 6.

Q. What points did they serve on 6?

A. Iowa City and back.

[fol. 2401] Q. And that was prior to your connection with Gateway?

A. Right.

Q. And you don't know on what basis of regularity that service was performed?

A. No, I don't know.

Q. Where was this peddle service down 163 and 63?

A. We had a break-point at Mount Pleasant—had a turn-around at Mount Pleasant between Des Moines and Mount Pleasant.

Q. According to your information how long was that service rendered?

A. From whenever they were in Des Moines until it closed in 1943. I don't know when it started.

Q. Now, your map which has been marked Exhibit 54, about when was that map made up?

A. In the lower right hand corner you will see the date. October, 1946. I might say for the record that there have been come corrections in terminal points.

Q. That indicates you had a terminal in Des Moines, as I interpret the map.

A. It was our intention to open a terminal, but we didn't find the property in Des Moines until——

Q. February, 1952?

A. Right.

Q. Do you have any information about a shipment—truckload shipment handled by your company from Winona, [fol. 2402] Minnesota, to Oxford, Iowa, sometime during the early part of the year 1952?

A. January 3, 1952, we entered into a lease with Iowa-

Nebraska Transportation Company covering a movement of Watkins Products consigned to Don Sheets at Oxford. They leased Gateway and we made delivery.

Q. Do you happen to have any information on that situation as to whether or not Iowa-Nebraska has operating authority to serve Oxford?

A. That was handled through the Cedar Rapids office.

Q. And that was an instance where Rock Island Motor Transit Company was the only carrier there and they were unable to handle it by reason of the 5000 pound limitation placed on its operation, was it not?

A. I didn't know they were the only one able to handle it, but I do know they had a restriction of 5000 pounds at that time.

By Mr. Nolan:

Q. Now your company is Gateway Transportation Company?

A. Right, as of January 1, 1949.

Q. That is an Illinois corporation?

A. Right. Originally in 1938 there were two companies—Gateway City Transfer Company, Inc. and Gateway Transportation Company. The Gateway City Transfer Company, Inc. merged with the Gateway Transportation Company in January, 1949.

Q. Is the Gateway Transportation Company the owner of over-the-road equipment?

[fol. 2403] A. 700 pieces of over-the-road equipment.

Q. By the way, when you said it was your understanding that you peddled at Iowa City, by that you meant you only peddle points where you have authority to, isn't that right?

A. Well, naturally.

Q. And that includes between Iowa City and Des Moines the points Altoona, Colfax, Grinnell and Newton. Correct?

A. Those points shown on the map. It doesn't show all of them.

By Exam. Carpenter:

Q. Shown on the map and listed on the back?

A. Yes.

Q. On other material?
A. No, because there is no volume shipments from them.
Q. How about calendars?
A. We don't serve them.

By Exam. Carpenter:

Q. When you refer to record do you mean Exhibits 51, 52 and 53?
A. Right.

By Mr. Nolan:

Q. Well, Economy and Moore are about the only two shippers of volume shipments we have in Iowa City. Right.
A. Kollman-Warner Seed Company.
Q. Is that for out of State points or mostly local?
A. Out of State.
Q. What other volume shipments do you have?
A. The Veteran's Hospital was there. It is not existent at present, but it was when they were getting equipment in to build the hospital.
Q. That is just a temporary situation there?
A. Yes.

Mr. Nolan: That's all.

Exam. Carpenter: Is there any redirect? Do you have any recross?

Mr. Howland: I don't believe I have any recross.

[fol. 2382] Mr. Nolan: The intervenors represented by me request the Examiner to direct the witness to produce for inspection the freight bills in his possession—under his custody from which Exhibits 51, 52 and 53 were compiled.

Mr. Fowler: Of course, our position with respect to that is——

Exam. Carpenter: Deny the request.

Mr. Howland: We will join in request for order for production of the bills.

I would like to ask one question on cross-examination.

By Mr. Howland:

Q. Merchants Motor Freight operates through Iowa City, does it not?

A. Yes.

Q. That is a Minneapolis to St. Louis operation?

A. I would say yes.

Q. Or perhaps Minneapolis-Chicago also?

A. I doubt that. Judging only from direction—the trailers go north and south through Iowa City and east and west presumably from Des Moines to the Tri-Cities.

Q. But do you know Merchants Motor Freight performs no carrier service at Iowa City?

A. It is my understanding they interline their Iowa City freight with Hedrick Motor Transfer at Cedar Rapids.

Q. And the only service rendered that you know of by Merchants Motor Freight to Iowa City or that vicinity is [fol. 2383] in connection with the movement of turkeys from Wellman?

A. Not confined to turkeys, but I would say perishable products.

Q. And are there other carriers like Red Ball, Prucka, Union and On-Time and numerous other carriers whose trucks pass through Iowa City on U. S. Highway 218 or U. S. Highway 6 and they perform no service to Iowa City?

Mr. Fowler: Object to that as not proper examination. No such subject was gone into on direct.

Mr. Howland: I think the general subject was opened.

Exam. Carpenter: Overruled.

A. I can only answer the question to the extent of U. S. Highway 6. I will say our place of business is on the highway and I see the names on equipment.

By Mr. Howland:

Q. You have never known that they performed any service—pick-up or delivery in Iowa City—the carriers I named?

A. No.

Q. There are probably a lot of other carriers in the same category?

A. I don't believe I can answer that.

Mr. Nolan: At this time intervenors move to strike from the record the testimony of the Witness Bothell, the tabu-

AFTERNOON SESSION 2:00 p. m.

Exam Carpenter: We will proceed.

OFFERS IN EVIDENCE AND OBJECTION THERETO

Mr. Fowler: At this time, Mr. Examiner, I would like to offer in evidence Exhibits 37 to 48 inclusive, being the manifest sheets which were identified by the Witness Hobbs [fol. 2406] and we have now obtained photostat copies and furnished them to counsel.

Exam. Carpenter: Any objections?

Mr. Fowler: I am informed that Mr. Hobbs has asked that the originals be returned for his files and in view of that I would like permission to offer the photostatic copies instead of the originals.

Mr. Howland: There won't be any objection to the substitution of photostats instead of originals.

Mr. Nolan: In connection with the offer of Exhibits 37 to 48, inclusive, the intervenors represented by me object to the introduction of said exhibits for reason same is wholly incompetent, irrelevant and immaterial; do not tend to prove or disprove any issue in this case; and for further reason there was no supporting data or records or freight bills produced or offered to be produced by the Des Moines Transportation Company for inspection to determine the veracity and correctness of said manifests or exhibits and by reason thereof same are hearsay, improper and prejudicial.

Mr. Howland: Applicant will join in the objection to the offer.

Mr. Fowler: I would merely like to point out, Mr. Examiner, in connection with these exhibits I believe you will recall and the record will show they are records kept in the ordinary course of business.

[fol. 2407] Exam. Carpenter: The objection is overruled and failure to produce the data will be given consideration when determining what weight to give the exhibits. The exhibits identified as Exhibits 37 through 48, both inclusive, are received in evidence.

(Intervenor's Exhibits 37 thru 48, Witness Hobbs, were received in evidence.)

Mr. Fowler: Mr. Examiner, there may be one or two interested carriers show up yet this afternoon, but for all substantial purposes that closes our evidence and if they do appear we will ask permission to produce them as witnesses.

Mr. Howland: If agreeable rebuttal evidence we wish to offer may be offered at this time and in case additional witnesses are introduced by objectors we may have additional opportunity to meet that.

Mr. Fowler: That is agreeable with me.

Mr. Howland: At this time the applicant requests that the transcript of testimony taken in Docket MC-29130 Sub-69 TA before the Interstate Commerce Commission commencing September 24, 1951, at Des Moines, Iowa, and continuing to and including October 3, 1951, be made Exhibit 55 and together with the exhibits which were incorporated in and identified as exhibits in the record. We ask leave to have the exhibit so marked and to withdraw same for the purpose of having same available in the preparation of any brief that may be filed in this proceeding.

[fol. 2408] Mr. Fowler: As I understand it, Mr. Howland, you are offering transcript in the temporary authority proceeding in its entirety as Exhibit 55 and you are asking that you introduce it and then withdraw it in the record?

Mr. Howland: On a temporary basis.

Mr. Fowler: And for what? For the purpose of making copies of it?

Mr. Howland: I will say this. There are certain portions of the evidence which we regard as material, particularly the testimony given by Mr. E. S. Petersen and which we shall probably desire to refer to.

Now, if there is any interested party who does not have a copy of the transcript we shall be glad to make the same available to that party on request, but the purpose of the offer is to incorporate in its entirety the transcript of the T.A. proceeding in the record here.

Mr. Fowler: I doubt the offer in form in which it is made meets the requirements of the rules of the Commission

with respect to such an offer. I will object to it later on some other grounds. On the other hand, I don't like to be unreasonable about it. It is rather a voluminous transcript. I assume the Commission has a copy of the transcript available to it.

Off the record.

(Discussion off the record.)

Mr. Howland: It is stipulated and agreed that the ap-
[fol. 2409] plicant and intervenors in support of the application may prepare from the transcript of the hearing held in Docket MC-29130 Sub 69 TA excerpts or portions of the testimony of witnesses and that copies thereof shall be furnished opposing counsel and that such excerpts may be designated and filed as an exhibit in this record as a late filed exhibit and that counsel for the protestants and objectors shall likewise have the right to supplement the statements so prepared by any portion of the record which they may refer to or have considered in evidence.

Mr. Fowler: I am willing to accept that stipulation solely to avoid voluminous incumbrance of the record. However, such productions are objected to by the objectors for reason it is incompetent, irrelevant, immaterial and not germane to this proceeding for the reason it is remote in time and developed in a proceeding in which the issues involved are other and different from the issues involved in this proceeding.

Exam. Carpenter: The objection is overruled and the—off the record.

(Discussion off the record.)

Exam. Carpenter: —material may be prepared and filed as a late filed exhibit on or before June 12, 1952.

Mr. Howland: At this time we withdraw the offer of Volumes 1 to 8 of the transcript of testimony and we will proceed as shown by the record.

(The material described to be furnished by applicant.)

[fol. 2410] Mr. Howland: Mr. Cole, will you come forward.

L. L. Cole was sworn and testified as follows:

Direct examination.

By Mr. Howland:

Q. Mr. Cole, you are the auditor for Rock Island Motor Transit Company?

A. That is correct.

Q. And you previously testified as a witness in this case—were on the stand on a number of occasions putting in your evidence during the later part of March this year?

A. Right.

Q. And I will ask you, Mr. Cole, if you have had access to the reports filed by certain carriers with the Iowa State Commerce Commission, which reports are copies or duplicate originals of reports made to the Interstate Commerce Commission for particular years by those carriers?

A. Right.

Q. What period of time was covered by your examination of those reports?

A. That varies by carriers. Some I have from 1938 to 1951—others from 1941 to 1951.

Q. Now, did you for the Bruce Motor Freight Company make an examination of reports so filed with the Iowa State Commerce Commission recently?

A. Yes, sir.

[fol. 2411] Q. And I wish you would state for the record, with respect to Bruce Motor Freight Company, the period of time covered by your examination?

Mr. Fowler: Off the record.

Exam. Carpenter: Off the record.

(Discussion off the record.)

Mr. Fowler: Mr. Howland, as I understand it you expect to introduce through Witness Cole certain information taken from Interstate Commerce Commission reports for various carriers who are involved in this proceeding, dating in some instances back as far as ten years, and it occurs to me that in order to save time of the Examiner and all of us that Mr. Cole should prepare a summary of the ma-

terial and file it with the Commission as a late filed exhibit with copies to us. Having taken a general glance at the proposed material we would object to the offer of any such material as incompetent, irrelevant and immaterial to any issue in the case. I do not object to it on the ground that it is not the best evidence nor his failure to be properly qualified for the offer.

Mr. Howland: I might say it is our intention to offer the figures as to tonnage handled; gross revenues earned; average load weight; average length of haul; for the following carriers: Des Moines Transportation Company, Inc., Bruce Motor Freight, Inc., Bos Truck Lines, Inc. and Iowa-Nebraska Transportation Company, Inc. The period to be covered by the tabulation will in the case of Bruce [fol. 2412] Motor Freight, Inc. be from 1944 to 1951, inclusive; for Des Moines Transportation Company, 1941 to 1951, both inclusive; the same for Bos Truck Lines, Inc. and the same for Iowa-Nebraska Transportation Company.

In addition to the items already referred to we shall desire to show where reports disclosed the percentage or proportion of truckload business to the total tonnage of the particular carrier for each of the years in question.

Mr. Fowler: As I understand it, Mr. Howland, this exhibit will be merely a restatement of material which is in the Interstate Commerce Commission reports without any additions by Mr. Cole.

Mr. Howland: Recitation of actual figures without any change or analysis of figures by the witness. I want to make sure that the average length of haul is disclosed right on the report.

Witness Cole: It won't be on for this period because the Interstate Commerce Commission didn't require it.

Mr. Howland: We will take whatever is on the face of the report.

Mr. Fowler: Just so I don't run into danger by reason of courtesy. If I thought I could get anything done I would object, but I am fearful you would overrule it. If I thought it might accomplish anything I would object on the ground that it is back too far for any materiality to issues in the case.

[fol. 2413] (Discussion off the record.)

Mr. Howland: We ask leave to file as a late filed exhibit the tabulation to be prepared by Mr. Cole and testified to by him which will contain the information referred to in previous statements as made by me and set forth in the record.

Mr. Fowler: And as I understand it it will be received subject to the objection as made.

Exam. Carpenter: I overrule your two objections and the data which you have referred to may be filed as a late filed exhibit on or before June 12, 1952.

(The material described to be furnished by applicant.)

Mr. Howland: It is further agreed that the annual report of the Iowa-Nebraska Transportation Company, Inc. of Avoca, Iowa, for the year 1951 as made and filed by the said carrier with the Interstate Commerce Commission will be offered as an exhibit in this case and we ask leave to have a copy of same incorporated in this record as a late filed exhibit to be filed at the same time as the other matters which have already been referred to by agreement between the parties hereto.

Mr. Fowler: I have no objection to the procedure suggested. I object to receipt in evidence of the exhibit on the ground that it is immaterial and irrelevant to any issue in this case.

Exam. Carpenter: Do you intend to submit as a late filed exhibit the entire report of Iowa-Nebraska?

[fol. 2414] Off the record.

(Discussion off the record.)

Mr. Howland: It is not our intention, Mr. Examiner, to include anything other than the balance sheet which I understand is known as Schedule 100 and is set forth on pages 6 and 7 showing assets and liabilities as of December 31, 1951; the income statement set forth on page 52, Schedule 2998-A, showing revenues and expenses and everything from page 52 thereof through and including page 60; Schedule 5300 and including items shown under Account 206, Administrative and General Salaries, Officer, Owners

and Partners; and also the operating statistics as shown on page 71, Schedule 9003; and trucks and tractors in intercity revenue service as shown on page 72, Schedule 9005.

By Mr. Fowler:

Q. It is your intention, Mr. Cole, in preparing this exhibit that you will merely copy information which is in the Interstate Commerce Commmission report?

A. Right.

Mr. Fowler: I have no objection to this order, but do renew my objection to its materiality.

Exam. Carpenter: Overruled. It may be filed as a late filed exhibit on or before June 12, 1952.

(The material described to be furnished by applicant.)

Exam. Carpenter: Off the record.

[fol. 2415] (Discussion off the record.)

By Mr. Howland:

Q. Mr. Cole, have you made some computation of the mileage in route miles between the points as to which, according to Exhibit 27, being a copy of Certificate of Public Convenience and Necessity issued to Iowa-Nebraska Transportation Company, Inc. for general commodities? Have you computed the route mileage by reference to road maps, etc.?

A. In a rough manner, yes, sir.

Q. Can you give us an approximate figure as to what that route mileage shown under Exhibit 27 under the designation "general route commodities" amounts to?

Mr. Fowler: What you are asking for, Mr. Howland, is Mr. Cole's rough estimate of route in that Certificate?

Mr. Howland: The total miles that are included in regular routes for general commodities by the Certificate, Exhibit 27, issued to Iowa-Nebraska.

Mr. Fowler: I object to that on the grounds it is incompetent, irrelevant and immaterial.

Exam. Carpenter: Should it be a rough estimate or actual calculation?

Mr. Howland: This was a calculation taken from Iowa Highway road map, but without an absolute check that it was accurate within a matter of 30 or 40 miles.

Exam. Carpenter: Overruled.

A. Approximately 1700 miles.

[fol. 2416] By Mr. Howland:

Q. And that was done by taking the terminal points as to which regular route authority is contained in Exhibit 27 and obtaining the mileage from a road map and the distance between Chicago and Omaha as 500 miles?

By Mr. Fowler:

Q. Do you agree it is a rough estimate?
A. That is correct.

Mr. Howland: I think that is all I have of Mr. Cole.
Exam. Carpenter: Any cross?
Mr. Fowler: No.
Exam Carpenter: You are excused, Mr. Cole.

(Witness excused.)

Exam. Carpenter: We will take a recess.

(Short recess.)

Mr. Fowler: Mr. Liston, will you come up here and take the stand.

If the examiner please, Mr. Liston is connected with Roberts Transfer.

JOHN LISTON was sworn and testified as follows:

Direct examination.

By Mr. Fowler:

Q. Will you announce your name?
A. John Liston.
Q. Where do you reside?
A. Audubon.

Q. With what company are you connected?

[fol. 2417] A. Roberts Transfer.

Q. With headquarters where?

A. Audubon.

Q. In what capacity are you connected with that company?

A. Manager.

Q. And how long have you been connected with that company?

A. 2½ years.

Q. In what business is Roberts Transfer engaged?

A. Freight business, general commodities.

Q. You say you have your headquarters at Audubon?

A. Yes, sir.

Q. Do you have any terminals from which you operate?

A. Yes, sir.

Q. Where are your terminals?

A. Omaha, Des Moines and Audubon. We have docks and telephones.

Q. How many pieces of power equipment do you own or operate?

A. Nine or ten I guess.

Q. How many trailers?

A. Five.

Q. Now, with respect to your operations in interstate commerce out of Des Moines. What points do you serve out of Des Moines in interstate commerce?

A. We have service to Guthrie Center, Panora, Audubon, Exira, Hamlin, Kimballton, Jacksonville, Avoca, Minden, Neola, Underwood, Council Bluffs and Oakland.

[fol. 2418] Q. Is the service you make available to the public in that operation a daily service?

A. Daily with the exception we run a five-day week. It is five days a week.

Q. Now, do you serve those same points from the Omaha terminal in interstate commerce?

A. There is the addition of Dallas Center out of Omaha. There is another town or two with Dallas Center—neighboring towns.

Q. Would you care to look at an Iowa map?

A. Grimes and Dallas Center.

Q. Just so I don't misunderstand you, you named certain towns you serve from Des Moines and then some you serve from Omaha. Are some of these points restricted for service out of Omaha?

A. Dallas Center and Grimes, as I understand it, are restricted for service out of Des Moines. They used to be known as a loop off Hiatt's permit. He sold that interstate right including up to Audubon.

Q. The towns restricted out of Des Moines are towns served by Hiatt?

A. Yes, sir.

Q. Do you interline with connecting carriers at Des Moines on interstate traffic destined to points which you serve?

A. Yes, sir.

Q. With what carriers do you interline? Give us a typical number of them?

[fol. 2419] A. Well—a typical number?

Q. A typical representation?

A. Burlington, Bruce, Rock Island Motor, Knaus, H & W, Des Moines Trans., Gateway, Bos Freight—those are the larger ones I would say. They give us the most interline.

Q. Through an interconnection with a carrier such as Bruce are you able to handle shipments originating St. Louis and destined to points you just mentioned in interstate commerce?

A. Yes.

Q. With respect to shipments received from connecting lines in Omaha you handle over your own line?

A. Yes, sir.

Q. With respect to shipments originating at Chicago and destined to points on your line, are those delivered to you by connecting carrier at Des Moines?

A. Yes, sir.

Q. And do you have a number of such shipments?

A. From which points?

Q. Chicago to points on your line?

A. Yes, sir.

Q. And do you have a number of such shipments from St. Louis to points on your line?

A. Yes, sir.

Q. And Kansas City to points on your line?

A. We have a few from Kansas City.

[fol. 2420] Q. And what about the Twin Cities?

A. We have quite a few from there.

Q. You do serve Audubon, Iowa, in interstate commerce?

A. Yes, sir.

Q. Are you familiar with the Five and Dollar store in Audubon?

A. Yes, sir.

Q. What is the fact you do perform transportation service for them?

A. Yes. On very few occasions.

Q. Have they ever asked for any service from you that you have been unable to perform? I mean have they asked you to handle a shipment and you refused?

A. No. They asked us on their store-door delivery to take it from the back door to the front door. Their warehouse is in the basement and we always deliver in the basement from the back door a matter of half a block. That is why we don't get along with him.

Q. Does the Rock Island Motor Transit Company handle most of their shipments?

A. Mostly. They specify them.

Q. As far as service you are in a position to render service to the Five and Dollar Store if requested to do so?

A. Yes, sir, and give eight o'clock delivery.

Q. In the morning out of Omaha?

A. Yes, sir.

[fol. 2421] Q. And how about Des Moines?

A. Yes, sir.

Q. Are you familiar with the Coast to Coast Store in Audubon?

A. Yes, sir.

Q. Do you perform any transportation service for them?

A. Yes, four or five times as much as for the Ben Franklin Store at Audubon.

Q. Is this service to them frequent service?

A. Yes, sir.

Q. How frequently in a week do you have a shipment for the Coast to Coast Store?

A. Once a day or more often. The average over a period of a year would be once a day.

Q. From what origin points do their shipments principally originate?

A. He gets them out of Minneapolis—the Coast to Coast organization in Minneapolis and he gets it Bruce to Des Moines and to Audubon by Roberts Transfer. From Omaha he gets quantities of oil and from Sioux City he gets twice weekly a shipment of oil.

Q. Did you include Casey, Iowa, in the points you mentioned?

A. No, sir.

Q. Did you include Anita?

A. No, sir.

Q. Did you include Adair?

A. No, sir.

[fol. 2422] Q. Did you include Carson?

A. No, sir.

Q. You did include Harlan?

A. Yes, sir.

Q. Do you perform transportation in interstate commerce to Harlan?

A. Yes, sir.

Q. Is that the daily service you have mentioned?

A. Yes, sir.

Q. Are you familiar with Brodersen Auto?

A. Yes.

Q. Do you perform any transportation service to him?

A. Yes. Both ingoing and outgoing. He sends parts to South Bend, Indiana—replacement parts.

Q. How do you handle an outgoing shipment for him to South Bend—to Des Moines and interchange with —

A. McCoy generally.

Q. Do you have a Mr. Frederickson in business in Harlan?

A. Yes. Wholesale candy and tobacco.

Q. Do you perform transportation service for him?

A. Once or twice a week inbound.

Q. Where does he get his shipments?

A. Chicago, St. Louis and Kansas City.

Q. Did you ever have a complaint from Frederickson or Brodersen of the character of service you perform?
[fol. 2423] A. Not face to face. I never heard him. We got a complaint from Brodersen on two other lines out of Omaha. They asked us about it.

Q. Brodersen has complained of your competitors and asked you how to get claims paid. Is that it?

A. Yes, sir. He asked what kind of a line they were.

Q. Did you mention Menlo?

A. No, sir.

Q. Minden?

A. Yes, sir.

Q. Are you acquainted with the Mowers Hardware Store there?

A. Yes, sir.

Q. Do you perform service to him?

A. Quite frequently, yes.

Q. From what origin points are his shipments?

A. The bulk of them from Des Moines.

Q. Do you have intrastate authority as well as interstate?

A. Yes, sir.

Q. Did you mention Neola?

A. Yes, sir.

Q. What service do you have to Neola?

A. Intrastate from Des Moines and we do serve interline in Des Moines for Neola and from Omaha—both ways.

Q. Are you familiar with Ericksen Implements?

A. That is a partnership, Petersen and Ericksen.
[fol. 2424] Q. Are you performing transportation service for them at present?

A. Yes, sir.

Q. Have you ever had complaint from them about your service?

A. No, sir.

Q. How about Oakland?

A. No, sir.

Q. Did you include Stuart?

A. No, sir.

Q. Now, as I understand it, you also have at the present time some arrangement with Rock Island Motor Transit

Company to handle some of their traffic Des Moines to Omaha?

A. Yes, sir.

Q. How long has that arrangement been in effect?

A. Since a year ago in March, or would it be October. My father is in California and I can't remember.

Q. Just what does that consist of? What is the volume? Is it truckload?

A. You mean individual shipments?

Q. Yes.

A. No, sir.

Q. Accumulatively does it amount to a truckload?

A. Over a period of a day or two, yes, it would.

Q. As I understand it you pick this traffic up at the dock of the railroad or the Rock Island Motor Transit?

[fol. 2425] A. Motor Transit.

Q. Is all of that traffic taken by you to Omaha or peddled on route to these towns?

A. With exception of once or twice it has all been to Omaha and beyond.

Q. Is that arrangement under a through rate agreement you have with them on traffic moving Chicago to Omaha—on division of through rate between Chicago and Omaha?

A. Yes, sir.

Q. I believe you also receive some Rock Island Motor Transit Company traffic destined to points you serve on your own route?

A. Yes, sir.

Q. Is that handled in a separate truck?

A. Yes, sir. We specify that. At first it wasn't, but we specified it later.

Q. In addition to operation described in local distribution and peddle service do you have any other operations in interstate commerce?

A. No.

Q. Is this equipment just described used in this operation just described for all your operations?

A. Power units are.

Q. What distinction do you make between power units and trailers?

A. We will pull Rock Island trailers.

By Mr. Nolan:

Q. As I understand the physical operation of your company so far as coming to Des Moines your truck comes from Cedar Rapids on Highway 30 west to 63 and on 63 to Highway 6 which is the junction east of Grinnell and into Des Moines?

A. It comes down 218 from Cedar Rapids.

Q. Don't you go west on 30 and south on 63 to 6 and then west?

A. No.

Q. Do you traverse Highway 6 from Iowa City to Des Moines?

A. We have two trucks a day going from Des Moines to Milwaukee and two in the reverse direction that travels Highway 6.

Q. I thought your physical operation was west on Highway 30 to Tama and south on 63 to Highway 6 and Highway 6 west to Des Moines?

A. If the operation is that way it is not to my knowledge. [fol. 2404] They are dispatched from Iowa City and Cedar Rapids.

Mr. Nolan: That's all.

Redirect examination.

By Mr. Fowler:

Q. This record shows that Iowa-Nebraska Transportation Company and Bos Truck Lines have authority to serve all points located on U. S. Highway 6 and that Des Moines Transportation Company has authority to serve certain points on U. S. Highway 6.

Now, what I want to ask you is, traffic originating St. Louis or delivered to you at St. Louis by connecting lines, destined to points on U. S. Highway 6 that you are not authorized to serve, would your company be willing to accept such shipment and interline with Iowa-Nebraska Transportation Company, Bos Truck Lines and Des Moines Transportation Company?

A. Yes.

Q. Would that interchange be likely to be at Des Moines on St. Louis interchange traffic?

A. Right.

Q. You have a terminal at Cedar Rapids?

A. Cedar Rapids, Waterloo and Dubuque.

Q. Do you have interconnecting line connections with carriers at those points?

A. At all points.

Q. What is the fact a shipment originating your territory on interline would be handled in the same way with carriers [fol. 2405] authorized to serve that territory?

A. Yes.

Q. Do you at the present time interchange with Iowa-Nebraska Transportation Company, Bos Truck Lines and carriers operating over U. S. Highway 6 now?

A. Yes.

Mr. Fowler: I believe that is all.

Exam. Carpenter: Is there any recross?

You are excused.

(Witness excused.)

OFFER IN EVIDENCE

Mr. Fowler: I would like to offer in evidence Exhibit 54, being system map of Gateway Transportation Company.

Exam. Carpenter: Any objection? If not it is received in evidence, Exhibit 54.

(Intervenor's Exhibit No. 54, Witness Ludden, was received in evidence.)

Mr. Fowler: Off the record.

(Discussion off the record.)

Exam. Carpenter: We will adjourn until 2:00 p. m.

(Whereupon at 12:00 noon a recess was taken until 2:00 p. m. of the same day.)

Q. Do you have some trailers of your own?

[fol. 2426] A. We have for our own business, but for pulling Rock Island freight we use their trailers.

Q. In your own operation, eliminating special service you have for Rock Island Motor Transit, how many tractors and trailers do you use in your own operation?

A. We use two of our five every day, one each way.

Q. Do you recall whether or not you have handled any shipments from implement companies in Moline or Rock Island destined to implement dealers in points you serve?

A. Would G. I. Case be Moline? I believe that is Rockford, Illinois. We have that to Audubon.

Q. How about John Deere?

A. I don't believe into Audubon, but we do for Petersen in Neola.

Q. But you are handling farm implements and parts originating in the Tri-City area to points in your area given to you at Des Moines by interconnection?

A. Yes, sir.

Q. And are doing it now?

A. Yes, sir.

Q. Do you recall whether you have handled any shipments originating in the Twin Cities from Janney Semple Hill & Company to merchants located in the points you serve?

A. Yes. Most every day we have a shipment. It comes through Omaha.

[fol. 2427] Q. Do you handle shipments from Paxton & Gallagher to points on your route?

A. Yes.

Q. Is that on regular daily occasions?

A. Yes. They have three different branches out there—groceries, hardware and floor tile. We haul one of them every day.

Q. Do you handle storage batteries out of Omaha?

A. Yes, sir. From Grant Storage Battery Company to Coast to Coast.

Q. Do you handle transportation for Grant Storage Battery Company out of Omaha to points you serve?

A. Yes, sir.

Q. Is that regular occasions?

A. Yes, sir, once a week or more often.

Mr. Fowler: You may examine.
Exam. Carpenter: Cross-examine.

Cross examination.

By Mr. Howland:

Q. Your age is what?
A. I am 24.
Q. And your father is the owner of Roberts Transfer?
A. Yes, sir.
Q. How long have you worked with that company—about 2½ years?
A. No. I worked from the time I got out of service in 1946 until 1949. Then I worked in Des Moines for approxi- [fol. 2428] mately a year and then I went back and have worked very since—about 2½ years ago.
Q. Now, the Roberts Transfer Company has no interstate operating authority—no Certificate on U. S. Highway 6?
A. No, sir.
Q. The authority that Roberts Transfer Company holds is for operation between Des Moines and Omaha via Iowa Highway 64?
A. Yes, sir, and several towns on 64. All the towns mentioned on 64. None on Highway 6.
Q. And the terminal points—that is your operation on the east begins at Des Moines and extends to Omaha?
A. Yes, sir.
Q. Over this route you have described as Iowa Highway 64?
A. Yes, sir.
Q. Now, you refer to shipments from Janney Semple Hill Company located in Minneapolis, Minnesota, to destinations on your line. Do I understand that your company gets those shipments at Omaha?
A. At Omaha. Very few, I would say, would come through Bruce at Des Moines. There are some, but 75% are through Omaha.

Q. What carrier handles those from whom-- You get them from some other carrier?

A. Yes. It varies. Union and Merchants at Omaha.

Q. Do you know over what route between Minneapolis and Omaha Merchants Motor Freight operates?

A. No. They offer 24-hour service.

[fol. 2429] Q. As a matter of fact Merchants Motor Freight operates between Minneapolis south to Des Moines and thence to Omaha from Des Moines.

A. I don't know. I know we have checked on the service to find who would give the best service and have written both Union and Merchants and they both said they offered 24-hour service from Minneapolis to Omaha.

Q. And if it be a fact that Merchants handles those Minneapolis-Omaha shipments through Des Moines, then you would be hauling them back on 64 from Omaha to destination to make delivery?

A. Yes. We could handle them either way. It depends on which way they route them. We will take them at either point.

By Mr. Fowler:

Q. You mean Des Moines or Omaha?

A. Yes, sir.

By Mr. Howland:

Q. Mr. Liston, has there not been some question in recent weeks as to whether the operations of Roberts Transfer between Des Moines and Audubon would be continued?

A. Well, there was. Matter of fact we lease that much of the run and it has been brought up and we have taken sort of and in the middle stand. We haven't said yes or no.

Q. Your father has as a matter of fact leased some Certificates between Audubon and Des Moines; or a Certificate?

A. Yes. Two interstate and intrastate.

Q. But the two Certificates cover the same route, of course?

[fol. 2430] A. Yes, sir.

Q. To whom were those Certificates originally issued?

A. Dolan N. Hiatt of Adel.

Q. Is it not true that your father sent a letter to the Rock Island Motor Transit Company along in the month of March, 1952, in which he indicated he expected to discontinue operation between Des Moines and Audubon?

A. It was to that effect—sort of advance notice so they could make their plans. We had a year on it. We just let them know.

Q. Has any final decision been arrived at with respect to that matter as to whether that operation will be continued by your father?

A. Nothing positive has been made.

Q. There is still a possibility that service between Des Moines and Audubon might be suspended or abandoned at least so far as your father is concerned?

A. So far as we are concerned I would say there would be that possibility, yes, but there is a possibility of many things.

Q. Your father, as a matter of fact, is holder of Certificate originally issued to him or acquired by him—that is he owns it outright—from Omaha to Audubon and the operation between Audubon and Des Moines is on a leased basis. Right?

A. Yes, that is the way it would be.

Q. And because of increased costs of operation due to certain wage adjustments and matters of that sort your [fol. 2431] father had considered the question as to whether he would desire to continue the Des Moines-Audubon part of his operation?

A. As I said it was taken in mind.

Q. Now, do you receive interline shipments at both Des Moines and Omaha from operators who themselves have any authority over Iowa Highway 64? There are certain carriers who operate on Highway 64, as I understand it.

A. Not recently. Rock Island Motor Transit used to give us some, but I think they must take it.

Q. What were the destinations for those?

A. Used to be Audubon and Harlan on a few occasions.

Q. How about other carriers who operate over 64 between Des Moines and Omaha, have you had instances where you dropped freight off for other carriers?

A. The only other is Iowa-Nebraska and they never interlined any freight at all with us.

Q. Have Iowa-Nebraska operated between Des Moines and Harlan?

A. They cover the same territory we do.

Q. And Iowa-Nebraska has no intrastate rights in that territory?

A. No.

Q. Mr. Fowler asked you about some instances of some claims for loss or damage with respect to some particular carrier with respect to a party who received freight and I don't recall just what it was you said in response to Mr. Fowler's question except as I understand it there had been [fol. 2432] some complaint about some particular claim situation growing out of loss and damage claims.

Mr. Fowler: Mr. Fowler didn't inquire about any such thing. I inquired about specific service Rock Island Motor Transit Company was giving.

Mr. Nolan: He was asked if they had had any complaint made by Mr. Frederickson and his partner in Harlan and Mr. Liston responded that they asked him about claims with one or two other carriers.

Witness Liston: That was Brodersen.

Mr. Nolan: At Harlan.

Witness Liston: Yes, sir.

Mr. Fowler: I would apologize. I didn't ask, but that did come out.

By Mr. Howland:

Q. What carriers did you have in mind when you answered that one or two carriers had had some difficulty on claims?

A. The main one was—I don't know whether it was a claim—I don't mean regular claim. Mr. Brodersen received parts—batteries, I think it was, from points unknown via Harlan Express and there was either loss or damage to one of the batteries. He claims he made claim to them and asked about the chances of collecting. It had gone six or eight months.

Q. Was there any other carriers you had in mind other than Harlan Express?

[fol. 2433] A. No.

Q. Now, this arrangement you referred to that you have with Rock Island Motor Transit consists of an arrangement, does it not, whereby freight originating at Davenport or points east of Davenport which Rock Island Motor Transit Company is unable to handle under present Certificates, that freight is turned over to Roberts Transfer at Des Moines for transportation to Omaha?

A. Yes, sir.

Q. And do you handle that in a separate trailer each night?

A. Yes, sir.

Q. How does that trailer get back to Des Moines?

A. It is brought back by our line empty.

Q. And is that handled on a division of the revenue on the shipment?

A. Yes. They divide it at Des Moines and then it is again divided at Omaha and we take what is in the middle.

Q. You take it proportionate to the mileage you have hauled it?

A. Yes, sir, percentage basis.

Q. About what amount, if you know, in pounds or tons of freight has that been running?

A. A month would be the only thing I have. I would say in a month, it is just from what my memory serves me, but about 150,000 pounds a month. That is just from memory and isn't exact.

Q. Has that been a regular daily service or certain days in the week?

[fol. 2434] A. At one time it was daily and now it is two or three times a week.

Q. And that was one of the things that was referred to in your letter your father sent to Rock Island Motor Transit?

A. That is the only service we perform for Rock Island Motor Transit.

Q. Other than interline transportation to points such as Panora or points like Kimballton, Elkhorn or some other points Rock Island does not serve?

A. Yes, sir.

Mr. Howland: I think that is all.
Exam. Carpenter: Redirect.

Redirect examination.

By Mr. Fowler:

Q. Mr. Liston, will you take that Iowa map and give me again a list of the points you serve in interstate commerce out of Des Moines?

A. The first point is Panora and then there is a little drop-off there at Panther Store.

Q. That is just a wide place in the road?

A. Oil station and store. Guthrie Center, Hamlin, Exira, Audubon, Kimballton, Elkhorn, Jacksonville, Harlan, Avoca, Minden, Neola, Underwood, Weston, Council Bluffs and Omaha.

Q. Are you authorized to serve all of those points from Omaha?

A. From Omaha? Yes.

[fol. 2435] Q. What points in addition to those are you authorized to serve?

A. Dallas Center and Grimes.

Q. Do you give a five-day week service to each of those points in interstate commerce through connecting carriers at Des Moines or originating at or through connecting carriers at Omaha?

A. Yes, sir.

Q. Now, under origin is considered your own traffic at Omaha?

A. Yes, sir.

Q. Now, you said there had been certain occasions when Rock Island Motor Transit had tendered you at Des Moines shipments to points served by you and also by them?

A. Yes, sir. I would say maybe three or four in the last several years.

Q. You think that was a mistake?

A. I think it was. We had quite a laugh about it.

Q. Did you say Des Moines Trans. has service on 64 that parallels yours?

A. Yes, sir, out of Chicago.

Q. And Omaha?

A. Yes, sir.

Q. Do they turn over to you anything?

A. They are our other competitor.

Q. With respect to abandoning the operation. If it could be continued at a profit do you intend to continue it?

A. The reason that was brought up, we got it on a five-
[fol. 2436] year lease with the Iowa Commission. The Interstate Commerce Commission approves the lease year to year and they have written that this next February the lease has to be turned back to the owner or purchased and the lease we have states the purchase price in it and we are first in line for purchase and several other points and it seems like it is pretty well binding.

Q. It has no effect on your operation out of Omaha to these points and you expect to continue that?

A. The permit out of Omaha stops at Audubon and the only reason we were going to give it up really was because of the fact the Interstate Commerce Commission didn't approve it.

Q. Let me ask this. Assume your lease arrangement doesn't work out and you apply to the Interstate Commerce Commission and get direct authority of your own. If you could accomplish that you would continue the operation?

A. Yes.

Q. So you have no intention of abandoning it if you get the lease straightened out?

A. Well, there was the labor proposition but, of course, who knows about labor. I think it can be handled.

Q. Let me ask you this. If it should appear that you can continue this operation at a profit is it your intention to continue it?

A. Yes, sir.

Q. If any appreciable quantity of that interconnecting
[fol. 2437] freight you now receive at Omaha and Des Moines was taken away from you what effect would it have on your operation?

A. It would drop off even more than it did because of the flood.

Mr. Fowler: Read the question.

(Question read.)

A. If a large quantity was taken away, well, we couldn't operate at a profit.

By Mr. Fowler:

Q. Do you regard the revenue which you receive through interconnecting carriers as an important part of your revenue to that part of your operation?

A. Definitely.

Q. If any appreciable part was taken away would it likely impair your operation?

A. Yes.

Mr. Fowler: I believe that is all.

Recross examination.

By Mr. Nolan:

Q. Is it a matter of fact your father, owner-operator of your company, definitely stated he was going to abandon service at Des Moines because of the cost of operation and there wasn't sufficient revenue to assist the operation?

A. The main reason was labor trouble and I believe 13 other carriers said if the unions want to move onto them they will abandon and they told the Iowa Commission so.

Q. Who was that?

A. Van Wyk.

[fol. 2438] Q. That transpired over a year ago your father saying he was going to abandon operations between Des Moines and Audubon because of the cost of operations?

A. He was going to abandon the first time he didn't make money.

Q. Your father definitely stated and wrote it in letter to the Rock Island Motor Transit that he had made up his mind he couldn't do business between Des Moines and Audubon on a profitable basis and he was going to confine his operations between Omaha and Audubon. Right?

Mr. Fowler: Object to that on grounds it is accumulative and repetitious having been asked and answered before.

Exam. Carpenter: Objection sustained.

By Mr. Nolan:

Q. Now, Mr. Liston, isn't it a fact that on the 28th day of March, 1952, your father advised the Rock Island Motor Transit Company that your company was going to cease doing business in Des Moines because of operating conditions in Des Moines which had existed for such a period of time he could no longer profitably operate between Audubon and Des Moines?

A. Somebody advised him to write that letter?

Q. Who?

A. Rock Island.

Q. Who told you that?

A. They said, "Give us a letter that you are going out of business because of labor trouble and we will see it is stopped." They said, "Give us a letter saying you are going [fol. 2439] to discontinue hauling our freight across. You don't even need to say why and we will take it to the Union and tell them to lay off." Mr. Jenkins said——

Q. He had no intention of abandoning services into Des Moines?

A. He said for three or four years. He has talked about it and decided against it.

Q. Is it not a fact that your father had this under consideration three or four years of terminating or abandoning service between Audubon and Des Moines on account of operating costs?

A. Do you mean——

Q. I asked you——

Mr. Fowler: I ask that the witness be permited to answer.

Exam. Carpenter: Read the question.

(Question read.)

A. The time element there is wrong. I would have to say no because of the time element.

By Mr. Nolan:

Q. For what period of time has your father been considering terminating operations between Audubon and Des Moines?

A. Just no reason.

Mr. Nolan: Will you read the question.

(Question read.)

A. Three or four years.

Mr. Nolan: That's all.

Exam. Carpenter: Redirect?

[fol. 2440] Mr. Fowler: That's all.

Exam. Carpenter: You are excused. Thank you.

(Witness excused.)

Mr. Fowler: If the Examiner please, I thought these were previously offered, objected to and ruled upon.

Exam. Carpenter: Everything was taken care of but receiving them.

Mr. Fowler: I offer in evidence Exhibits 51, 52 and 53, identified by Witness Bothell.

Exam. Carpenter: Documents identified as Exhibits 51, 52 and 53 are received in evidence.

(Intervenor's Exhibits Nos. 51, 52 and 53, Witness Bothell, were received in evidence.)

Mr. Fowler: I think that is all.

At this time, Mr. Examiner, I would like to enter my appearance, in addition to the carriers already designated, for Merchants Motor Freight and Roberts Transfer as intervenors in opposition. I would like to correct my appearance to read, A. W. Liston, doing business as Roberts Transfer, Audubon, Iowa.

We rest.

Mr. Howland: I have a little rebuttal evidence to the last witness if the Examiner please.

I would like to have Mr. Morrison sworn.

JOHN F. MORRISON was sworn and testified as follows:

[fol. 2441] Direct examination.

By Mr. Howland:

Q. Your name is John F. Morrison?

A. Correct.

Q. And your occupation?

A. Commercial Agent for Rock Island Motor Transit Company, Des Moines.

Q. And your home address?

A. 2315 Grand Avenue.

Q. And you have been employed by Rock Island Motor Transit how long?

A. Ten years approximately.

Q. Mr. Morrison, do you know Mr. John Liston who was on the witness stand a few moments ago?

A. I met him here at hearing we were having on March 18.

Q. March 18.

Are you also acquainted with A. W. Liston the owner-operator of Roberts Transfer?

A. I met him and his son at the same time.

Q. Was there some conversation between yourself, Mr. A. W. Liston and Mr. John Liston on that occasion?

A. Yes.

Q. And you participated in that conversation?

A. Well, there was Mr. Liston who was on the stand and his father.

Q. Anybody else?

[fol. 2442] A. Later we got into conversation with Mr. William F. Peterson, General Manager of Rock Island Motor Transit Company.

Q. What conversation did you have with Mr. A. W. Liston at that time? What did Mr. Liston say to you in connection with the subject of abandoning services between Des Moines and Audubon?

Mr. Fowler: I object to that as calling for pure hearsay, incompetent and immaterial. If intended to impeach the

witness who was just on the stand proper foundation has not been laid for such evidence.

Exam. Carpenter: Objection sustained.

Mr. Howland: May I ask if it is the thought of the Examiner that no proper foundation has been made for impeachment?

Exam. Carpenter: It is hearsay evidence.

Mr. Howland: We would like to make offer of proof at this time for purposes of the record and we state for the purpose of the record that the witness, if permitted to testify, would in substance testify to the following facts: That during the time of the hearing on the application for permanent authority of the Rock Island Motor Transit Company about the 24th or 25th of March, this witness was approached by Mr. A. W. Liston, accompanied by his son John Liston and that Mr. A. W. Liston stated that he was going to abandon service between Des Moines, Iowa, and Audubon, Iowa; that the operating costs had increased and the volume of business was such that he could not continue the operation; that this witness then asked Mr. Liston what [fol. 2443] his difficulties were and was advised that Mr. Liston feared that increased costs would be imposed on him by reason of certain demands that had been presented by a labor organization and that he, Liston, had made up his mind he would not continue the operation; that Witness Morrison then suggested, in substance, that the time for discontinuance be fixed at some date in the future so that some arrangements might be made with respect to handling of business and the Witness Morrison also suggested that if there was anything he or any other officer of the Rock Island Motor Transit Company could do to aid Mr. Liston in connection with the operation of his line that such officers of Rock Island Motor Transit Company would be willing to do it as the Rock Island Motor Transit Company desired Mr. Liston to continue his operation.

The witness would further testify that Mr. Liston sent a letter addressed to D. E. Jenkins, Superintendent of Operations for Rock Island Motor Transit Company, fixing the date of discontinuance of operations between Audubon, Iowa, and Des Moines, Iowa.

Exam. Carpenter: Let the record show that Mr. Liston

left the hearing room prior to Mr. Morrison being offered as a witness.

Off the record.

(Discussion off the record.)

Exam. Carpenter: Is there anything further of Mr. [fol. 2443-A] Morrison? If not, you are excused.

(Witness excused.)

Mr. Howland: That is all we have to offer.
Exam. Carpenter: You rest at this time?
Mr. Howland: We rest.
Exam. Carpenter: Briefs are due July 11, 1952.
Is there anything further?
Mr. Howland: I think of nothing further.
Exam. Carpenter: The hearing is closed.

(At 4:45 p.m., May 22, 1952, hearing closed.)

[fol. 2444] SECRETARY'S CERTIFICATE (omitted in printing).

Exhibit No. 1

(See Opposite) ☞

[fol. 2445] EXHIBIT No. 1

The Chicago Association of Commerce and Industry

TRANSPORTATION COMMITTEE

BULLETIN No. 233

"WAY TO SHIP"

JANUARY 1952

Package Car Service From Chicago

Time Schedule in days as shown herein contemplates placement of cars for unloading at freight station at destination before 12 o'clock noon, except where schedule is suffixed with letter P, in which case cars are not due to be placed for unloading until the afternoon.
All cars that are scheduled to be placed for unloading before 12 o'clock noon and are not placed for unloading until the afternoon are considered as being one day late, and all cars that are scheduled to be placed for unloading in the afternoon and are not placed for unloading before 4 P. M. are also considered as being one day late.

Month	Cars Forwarded	Cars Reported	On Time		One Day Late		2 Days Late		3 Days Late		4 Days Late		5 or more Days Late		Delayed At Destination	
			Cars	%	Cars	%	Cars	%	Cars	%	Cars	%	Cars	%	Cars	%
Jan., 1951	19878	16203	9822	60.6	3935	24.2	846	5.2	714	4.4	346	2.1	540	3.3	678	4.1
Jan., 1952	18473	14291	9642	67.4	3270	22.8	539	3.7	536	3.7	179	1.2	125	0.8	593	4.1

A. H. SCHWIETERT,
Traffic Director

Page 2 PERFORMANCE RECORD OF CHICAGO PACKAGE CARS DURING JANUARY, 1952

DESTINATION	VIA	References	Time Schedule ★ (In Days)	Number of Cars Forwarded	NUMBER OF CARS REPORTED								Per Cent Unloaded On Time
					Total Number	Unloaded on Time	Unloaded 1 Day Late	Unloaded 2 Days Late	Unloaded 3 Days Late	Unloaded 4 Days Late	Unloaded 5 or More Days Late	Late Due to Delay in Placement	
ALABAMA													
Birmingham	IC		2	51	51	50	0	0	1	...	...	...	98.0
Birmingham	IC		2	28	28	28	...	...	...	...	...	...	100.0
Birmingham	C&EI-L&N	(3)	3	13	13	12	1	...	...	...	...	1	92.3
Mobile	GM&O		3	24	24	18	3	2	1	...	...	...	75.0
Mobile	IC-L&N	(3)	3	16	16	11	5	...	...	...	...	3	68.7
Montgomery	C&EI-L&N		3	26	26	20	3	0	1	2	...	1	76.9
Montgomery	IC-CofGa	# (3)	3	15	15	15	...	...	...	...	...	...	100.0
ARIZONA													
Phoenix	AT&SF	(3)	4	13	13	9	4	...	...	...	...	...	69.2
ARKANSAS													
Little Rock	C&EI-MP	(3)	2	8	8	1	3	1	1	2	...	1	12.5
Little Rock	IC-CRI&P	(3)	2	20	20	17	1	0	2	...	...	...	85.0
Little Rock	Wab-MP		2	27	27	7	16	1	3	...	...	2	25.9
Little Rock	CRI&P	(3)	3	10	10	0	2	5	2	1	...	...	0.0
Pine Bluff	C&EI-SLSW	(3)	2	13	...	...	...	...	...	...	...	...	.....
Pine Bluff	IC-SLSW	(3)	2	19	...	...	...	...	...	...	...	...	.....
CALIFORNIA													
Fresno	AT&SF	(3)	6	16	16	15	1	...	...	...	...	...	93.7
Los Angeles	AT&SF		7	37	37	37	...	...	...	...	...	...	100.0
Los Angeles	C&NW-UP	(2)	7	23	23	21	2	...	...	...	...	...	91.3
Los Angeles	CRI&P-SP	(3)	7	13	13	4	7	2	...	...	...	7	30.7
Oakland	AT&SF	(3)	7	14	14	14	...	...	...	...	...	...	100.0
Oakland	C&NW-SP	(2)	7	14	...	...	...	...	...	...	...	...	.....
Sacramento	C&NW-SP	(2)	7	14	14	8	2	0	1	1	2	...	57.1
San Diego	AT&SF	(3)	7	13	13	12	1	...	...	...	...	1	92.3
San Francisco	AT&SF	(3)	7	14	14	12	2	...	...	...	...	...	85.7
San Francisco	C&NW-SP	(2)	7	25	24	14	4	2	0	4	...	...	58.3
CANADA													
Calgary, Alta	Soo-CP	(3)	7	20	...	...	...	...	...	...	...	...	.....
Montreal, Que	GT		3	66	...	...	...	...	...	...	...	...	.....
Montreal, Que	Wab-CP	(3)	3	17	...	...	...	...	...	...	...	...	.....
Sarnia, Ont	GT		1	27	...	...	...	...	...	...	...	...	.....
Toronto, Ont	CMStL&P-CN		2	23	19	0	1	4	1	7	6	1	0.0
Toronto, Ont	GT		2	79	...	...	...	...	...	...	...	...	.....
Toronto, Ont	MC-CP	(3)	2	18	...	...	...	...	...	...	...	...	.....
Toronto, Ont	Wab-CP		2	23	...	...	...	...	...	...	...	...	.....
Vancouver, B. C	Soo-CP		9	...	...	...	...	...	...	...	...	...	.....
Winnipeg, Man	C&NW-CN	(2)	4	13	...	...	...	...	...	...	...	...	.....
Winnipeg, Man	Soo-CP		4	45	43	32	5	0	6	...	...	3	74.4
COLORADO													
Denver	AT&SF	(3)	3	14	14	11	3	...	...	...	...	...	78.5
Denver	CB&Q		3	33	33	22	8	0	2	1	...	...	66.6
Denver	C&NW-UP	(2)	3	20	19	18	0	0	1	...	...	...	94.7
Denver	CRI&P	(3)	3	14	14	4	7	2	1	...	...	...	28.5
Pueblo	AT&SF	(3)	3	21	21	18	3	...	...	...	...	...	85.7
CONNECTICUT													
Cedar Hill Yfr	PRR-NYNH&H		4	24	24	13	9	2	...	...	...	4	54.1
Hartford	NYC-NYNH&H	(3)	4	20	20	13	3	1	1	0	2	2	65.0
DELAWARE													
Wilmington	PRR	(1)	3	13	13	5	3	0	5	...	...	1	38.4
DISTRICT OF COLUMBIA													
Washington	B&O		2	45	44	40	3	0	0	0	1	...	90.9
Washington	B&O	B (3)	2	12	12	11	1	...	...	...	...	...	91.6
Washington	B&O	H (5)	2	4	4	4	...	...	...	...	...	...	100.0
Washington	PRR	(1)	3	15	14	13	1	...	...	...	...	...	92.8

★ - See Page 1 for explanation of Time Schedule and method of determining Package Car performance.
\# - See Changes in Service, Page 15.
B - Refrigerator only.
H - Heater service.

(1) Through cars left Chicago Tuesday, Thursday and Saturday.
(2) Through cars left Chicago Monday, Wednesday and Friday.
(3) Through cars did not operate daily.
(5) Through cars left Chicago Friday only.

[fol. 2447]

(Fol. 2447 - p. 1805)

PERFORMANCE RECORD OF CHICAGO PACKAGE CARS DURING JANUARY, 1952 — Page 3

DESTINATION	VIA	References	Time Schedule ★ (In Days)	Number of Cars Forwarded	NUMBER OF CARS REPORTED								Per Cent Unloaded On Time
					Total Number	Unloaded on Time	Unloaded 1 Day Late	Unloaded 2 Days Late	Unloaded 3 Days Late	Unloaded 4 Days Late	Unloaded 5 or More Days Late	Late Due to Delay in Placement	
FLORIDA													
Jacksonville	CI&L-Sou	(3)	3	8	8	6	1	1	...	...	...	...	75.0
Jacksonville	IC-ACL	(3)	3	21	21	19	1	0	1	...	...	...	90.4
Jacksonville	IC-ACL	B (5)	3	4	4	4	...	...	...	...	...	...	100.0
Jacksonville	IC-SAL	(3)	3	21	21	19	1	0	1	...	...	...	90.4
Jacksonville	C&EI-ACL	(3)	4	15	15	13	0	1	1	...	...	...	86.6
Jacksonville	C&EI-SAL	(3)	4	13	13	13	...	...	...	...	...	...	100.0
Miami	IC-FEC		4	23	23	18	2	3	...	...	...	...	78.2
Miami	IC-FEC	B (5)	4	4	4	3	1	...	...	...	...	...	75.0
Miami	C&EI-SAL	(3)	5	11	11	8	3	...	...	...	...	2	72.7
Tampa	IC-ACL		4	22	22	21	0	1	...	...	...	...	95.4
Tampa	C&EI-SAL	(3)	5	12	12	11	0	1	...	...	...	...	91.6
GEORGIA													
Albany	IC-CofGa	(3)	3	20	20	20	...	...	...	...	...	...	100.0
Atlanta	IC-NC&StL		2P	30	30	16	6	1	7	...	...	2	53.3
Atlanta	IC-NC&StL	B (17)	2P	8	8	5	3	...	...	...	...	...	62.5
Atlanta	C&EI-NC&StL	(3)	3	16	16	14	2	...	...	...	...	1	87.5
Atlanta	CI&L-Sou	(3)	3	15	15	10	4	1	...	...	...	...	66.6
Columbus	IC-CofGa	(3)	2	21	21	18	3	...	...	...	...	...	85.7
Columbus	IC-CofGa	B (5)	2	4	4	4	...	...	...	...	...	...	100.0
Macon	IC-CofGa		3	23	23	23	...	...	...	...	...	...	100.0
Savannah	IC-CofGa	(3)	3	18	18	12	6	...	...	...	...	...	66.6
Savannah	IC-CofGa	B (17)	4	8	7	4	3	...	...	...	...	...	57.1
Waycross	IC-ACL		3	27	27	26	1	...	...	...	...	...	96.2
IDAHO													
Pocatello	C&NW-UP	(2)	5	16	16	9	7	...	...	...	...	...	56.2
ILLINOIS													
Alton	GM&O	(3)	1	19	19	8	9	1	1	...	...	...	42.1
Ashburn	Wab	(3)	1	13	13	11	2	...	...	...	...	...	84.6
Aurora	CB&Q		1	33	29	29	...	...	...	...	...	...	100.0
Aurora	C&NW	(2)	1	13	13	11	1	0	0	1	...	...	84.6
Beardstown	CB&Q	(3)	1	17	17	7	9	0	1	...	...	...	41.1
Belleville	IC	(3)	2	21	21	20	1	...	...	...	...	...	95.2
Belvidere	C&NW	(2)	1	11	11	6	5	...	...	...	...	...	54.5
Bloomington	GM&O	(20)	1	30	30	26	2	0	0	0	2	1	86.6
Bloomington	IC	(3)	1	16	16	12	3	1	...	...	...	...	75.0
Bloomington	IC	B (3)	1	10	10	9	1	...	...	...	...	...	90.0
Bloomington Tfr	GM&O	(3)	1	3	3	2	0	0	0	1	...	...	66.6
Blue Island	CRI&P	D (3)	1	22	22	22	...	...	...	...	...	...	100.0
Blue Island	GT	(3)	1	5	...	...	...	...	...	...	...	...	.....
Cairo	IC	(3)	1	20	20	19	1	...	...	...	...	...	95.0
Carbondale	IC		1	61	61	61	...	...	...	...	...	...	100.0
Carbondale	IC	B (3)	1	14	14	14	...	...	...	...	...	...	100.0
Centralia	IC		1	24	24	24	...	...	...	...	...	...	100.0
Champaign	IC		1	30	30	30	...	...	...	...	...	...	100.0
Chicago Heights	C&EI		1	24	24	24	...	...	...	...	...	...	100.0
Clinton	IC		1	27	27	26	1	...	...	...	...	1	96.2
Danville	C&EI		1	29	29	6	16	1	5	1	...	1	20.6
Danville	Wab	(3)	1	10	10	2	2	2	1	3	...	...	20.0
Decatur	IC		1P	29	29	28	0	1	...	...	...	...	96.5
Decatur	Wab		1	24	24	15	9	...	...	...	...	9	62.5
De Kalb	CMStP&P	D	1	22	22	22	...	...	...	...	...	...	100.0
De Kalb	C&NW	(2)	1	16	16	5	7	2	0	1	1	...	31.2
Dixon	C&NW	(2)	1	14	14	2	12	...	...	...	...	2	14.2
Dixon	IC	(3)	1	19	19	7	12	...	...	...	...	...	36.8
E. St. Louis	C&NW-L&M	(2)	1	92	77	18	47	7	5	...	...	4	23.3
E. St. Louis	GM&O		1	41	41	11	18	6	6	...	...	4	26.8
E. St. Louis	IC		1	55	55	29	26	...	...	...	...	...	52.7
E. St. Louis	NYC-B/A	(3)	1	16	16	1	7	5	2	0	1	1	6.2
Elgin	CMStP&P	D	1	22	22	22	...	...	...	...	...	...	100.0
Elgin	C&NW	(2)	1	14	14	2	7	1	1	0	3	1	14.2
Elva	C&NW	(2)	1	13	...	...	...	...	...	...	...	...	.....
Ft. Sheridan	C&NW	(2)	1	10	10	6	4	...	...	...	...	...	60.0
Freeport	CMStP&P	D	1	22	22	22	...	...	...	...	...	...	100.0
Freeport	C&NW	(2)	1	13	13	7	6	...	...	...	...	...	53.8
Freeport	IC		1	41	41	40	1	...	...	...	...	...	97.5
Galesburg	AT&SF	(3)	1	21	21	21	...	...	...	...	...	...	100.0
Galesburg	CB&Q		1	56	50	41	8	0	0	1	...	4	82.0
Galesburg	CMStP&P-CB&Q	(3)	1	21	21	0	0	4	5	3	9	1	0.0
Glenview	CMStP&P	D	1	22	22	22	...	...	...	...	...	...	100.0
Great Lakes	C&NW	(2)	1	13	...	...	...	...	...	...	...	...	.....
Harvard	C&NW	(2)	1	13	...	...	...	...	...	...	...	...	.....
Highland Park	C&NW	(2)	1	13	13	8	5	...	...	...	...	...	61.5

★ - See Page 1 for explanation of Time Schedule and method of determining Package Car performance.
B - Refrigerator only.
D - Daily truck service.
(2) Through cars left Chicago Monday, Wednesday and Friday.
(3) Through cars did not operate daily.
(5) Through cars left Chicago Friday only.
(17) Through cars left Chicago Tuesday and Friday.
(20) Also have daily truck service.

PERFORMANCE RECORD OF CHICAGO PACKAGE CARS DURING JANUARY, 1952

(Fr. 2448 - p. 1806)

DESTINATION	VIA	References	Time Schedule ★ (In Days)	Number of Cars Forwarded	NUMBER OF CARS REPORTED								Per Cent Unloaded On Time
					Total Number	Unloaded on Time	Unloaded 1 Day Late	Unloaded 2 Days Late	Unloaded 3 Days Late	Unloaded 4 Days Late	Unloaded 5 or More Days Late	Late Due to Delay in Placement	
ILLINOIS--Concluded													
Hoopeston	C&EI	(3)	1	11	11	2	9	...	...	...	...	...	18.1
Joliet	AT&SF		1	42	28	28	...	...	...	...	...	...	100.0
Joliet	CMStP&P	D	1	22	22	22	...	...	...	...	...	...	100.0
Joliet	CRI&P	D	1	22	22	22	...	...	...	...	...	...	100.0
Joliet	GM&O	D	1	22	22	22	...	...	...	...	...	...	100.0
Joppa	C&NW-EJ&E	(2)	1P	11	10	1	3	1	2	3	...	1	10.0
Kankakee	C&EI	(3)	2	14	14	12	1	1	...	...	...	...	85.7
Kewanee	IC		1	45	45	44	1	...	...	...	...	...	97.7
LaSalle	CB&Q		1	26	25	25	...	...	...	...	...	...	100.0
Libertyville	CRI&P	(3)	1	17	14	10	4	...	...	...	...	...	71.4
Lincoln	CMStP&P	D	1	22	22	22	...	...	...	...	...	...	100.0
Macomb	IC	# (3)	1P	17	17	10	7	...	...	...	...	...	58.8
Mattoon	CB&Q	(3)	1	18	18	17	1	...	...	...	...	...	94.4
McHenry	IC		1	60	59	24	34	0	1	...	...	...	40.6
Wendota	C&NW	(2)	1	22	...	...	...	...	...	...	...	...	.....
Moline	CB&Q		E	29	...	...	...	...	...	...	...	...	.....
Moline	CMStP&P		1	23	23	22	1	...	...	...	...	...	95.6
Moline	CRI&P		1	22	21	4	17	...	...	...	...	...	19.0
Monee	IC	(3)	1	13	13	4	8	1	...	...	...	...	30.7
Moon	AT&SF	(3)	1	19	...	...	...	...	...	...	...	...	.....
Morrison	C&NW	(3)	1	21	21	21	...	...	...	...	...	...	100.0
Morton Grove	CMStP&P	(2)	1	12	12	4	6	0	1	0	1	...	33.3
Mount Carmel	NYC-B/L	D	1	22	22	22	...	...	...	...	...	...	100.0
Mount Vernon	C&EI	(3)	1	13	13	3	6	4	...	...	...	...	23.0
Oregon	CMStP&P		1P	31	31	19	10	2	...	...	...	...	61.2
Ottawa	CB&Q	(2)	1	12	12	11	1	...	...	...	...	...	91.6
Ottawa	CRI&P		1	23	18	18	...	...	...	...	...	...	100.0
Pekin	AT&SF	(20)	1	45	23	9	10	3	0	1	...	2	39.1
Peoria	AT&SF-IT	(3)	1	17	17	12	5	...	...	...	...	...	70.5
Peoria	CB&Q	(3)	1	14	9	4	4	1	...	...	...	...	44.4
Peoria	C&NW	(3)	1	20	15	11	4	...	...	...	...	...	73.3
Peoria	CRI&P	(2)	1	27	26	4	12	3	1	6	...	4	15.3
Peoria	GM&O-P&PU		1	29	29	7	14	4	4	...	...	4	24.1
Peoria (P&PU)	IC	(3)	1	14	14	3	7	0	2	1	1	4	21.4
Quincy	CRI&P	# (3)	2	14	14	7	1	2	3	1	...	1	50.0
Rantoul	CB&Q	(3)	1	8	8	0	3	3	0	2	...	3	0.0
Rochelle	IC		1	64	61	54	6	1	...	...	...	...	88.5
Rochelle	CB&Q	(3)	1	20	...	...	...	...	...	...	...	...	.....
Rockford	C&NW	(3)	1	8	8	6	2	...	...	...	...	...	75.0
Rockford	CB&Q	(2)	1	11	...	...	...	...	...	...	...	...	.....
Rockford	CMStP&P	(3)	1	14	10	9	1	...	...	...	...	...	90.0
Rockford	C&NW		1	46	44	13	29	0	0	1	1	...	29.5
Rock Island	IC	(2)	1	24	24	23	1	...	...	...	...	...	95.8
Savanna	CRI&P		1	40	40	34	6	...	...	...	...	...	85.0
Savanna	CB&Q		1	29	29	6	23	...	...	...	...	...	20.7
Springfield	CMStP&P	(3)	1	13	11	7	3	0	0	1	...	4	63.6
Springfield	GM&O		1	44	43	35	8	...	...	...	...	8	81.3
Springfield	IC		1	34	34	18	10	2	2	2	...	...	52.9
Sterling	Wab	(26)	1	26	26	23	2	0	0	1	...	...	88.4
Sterling	CB&Q	(3)	1	10	10	10	...	...	...	...	...	...	100.0
Streator	C&NW	(2)	1	17	16	5	9	2	...	...	...	...	31.2
Streator	AT&SF	(3)	1	14	14	4	10	...	...	...	...	...	28.5
Sycamore	Wab	(3)	1	21	21	21	...	...	...	...	...	...	100.0
Sycamore	CGW	(3)	1	14	14	3	11	...	...	...	...	...	21.4
Sycamore	C&NW	(3)	1	11	11	0	1	1	3	1	5	...	0.0
Taylorville	Wab	(2)	1	17	17	17	...	...	...	...	...	...	100.0
Waukegan	C&NW	(3)	1	12	...	...	...	...	...	...	...	...	.....
West Ridge	C&EI	(20) (2)	1	40	...	...	...	...	...	...	...	...	.....
Wheaton	C&NW	(3)	1	11	11	11	...	...	...	...	...	...	100.0
Wood River	GM&O	D	1	22	22	22	...	...	...	...	...	...	100.0
Woodstock	C&NW	(2)	1P	23	22	7	13	1	1	...	...	...	31.8
			1	13	13	13	...	...	...	...	...	...	100.0
*INDIANA													
Anderson	PRR	(1)	2	14	14	10	4	...	...	...	...	...	71.4
Bedford	CI&L	(3)	1	17	17	3	6	4	4	...	...	3	17.6
Bloomington	CI&L	(3)	1	11	11	2	6	1	2	...	...	...	18.1
Columbus	PRR	(3)	2	16	16	4	11	1	...	...	...	...	25.0
Dyer	CI&L	(3)	1	13	13	5	7	0	0	0	1	...	38.4
Elkhart	NYC		1	25	24	3	10	4	4	3	...	16	12.5
Evansville	C&EI		1	45	45	31	14	...	...	...	...	...	68.8
Evansville	CMStP&P-C&EI		2	22	22	3	10	7	0	2	...	...	13.6
Evansville (L&N)	IC	(3)	2	21	21	20	1	...	...	...	...	...	95.2
Evansville (Sou)	C&EI		1P	31	30	17	9	0	3	1	...	1	56.6
Fairmersburg	C&EI		1P	22	20	5	7	2	5	0	1	7	25.0
Port Wayne	NKP	(3)	2	10	10	10	...	...	...	...	...	...	100.0
Port Wayne	PRR	K	1	25	...	...	...	...	...	...	...	...	.....
Port Wayne	Wab	K	1	35	35	29	4	2	...	...	...	...	82.8
		(3)	1	12	12	3	5	2	1	1	...	...	25.0

★ - See Page 1 for explanation of Time Schedule and method of determining Package Car performance.
\# - See Changes in Service, Page 15.
D - Daily truck service.
K - Scheduled refrigerated container service available.
* - Some of the delays are attributed to severe Snow Storms.

(1) Through cars left Chicago Tuesday, Thursday and Saturday.
(2) Through cars left Chicago Monday, Wednesday and Friday.
(3) Through cars did not operate daily.
(20) Also have daily truck service.
(26) Through cars left Chicago Wednesday and Friday.

(FR 2449 - p. 1807)

DESTINATION	VIA	References	Time Schedule ★ (In Days)	Number of Cars Forwarded	NUMBER OF CARS REPORTED								Per Cent Unloaded On Time
					Total Number	Unloaded on Time	Unloaded 1 Day Late	Unloaded 2 Days Late	Unloaded 3 Days Late	Unloaded 4 Days Late	Unloaded 5 or More Days Late	Late Due to Delay in Placement	
*INDIANA--Concluded													
Garrett	B&O		1	25	25	25	...	...	...	...	...	...	100.0
Gary	B&O	D	1	22	22	22	...	...	...	...	...	...	100.0
Gary	NYC	D	1	22	22	22	...	...	...	...	...	...	100.0
Gary	PRR	D	1	22	22	22	...	...	...	...	...	...	100.0
Gary	Wab	D	1	22	22	22	...	...	...	...	...	...	100.0
Hammond	CI&L	(3)	1	6	6	6	...	...	...	...	...	...	100.0
Huntington	Erie	(3)	1	18	17	15	1	0	1	...	...	...	88.2
Indianapolis	CI&L	(3)	1	18	18	18	...	...	...	...	...	...	100.0
Indianapolis	B/4		1	41	41	19	18	4	...	...	...	...	46.3
Indianapolis	NYC-B/4		1	28	14	2	6	5	1	...	...	...	14.2
Indianapolis	PRR	K	1	38	36	5	11	10	5	3	2	2	13.8
Indianapolis	CMStP&P-B/4		2	23	22	3	10	5	3	1	...	...	13.6
Kokomo	PRR	(1)	2	17	16	11	4	0	0	0	1	...	68.7
LaFayette	CI&L	(3)	1	14	14	9	5	...	...	...	...	...	64.2
Lakeville	Wab	(3)	1P	12	5	0	0	3	0	0	2	...	0.0
La Porte	NYC	D	1	22	22	22	...	...	...	...	...	...	100.0
Logansport	PRR	K	1	29	29	24	4	1	...	...	...	...	82.7
Monon	CI&L	(3)	1	12	12	8	4	...	...	...	...	...	66.6
Muncie	CMStP&P-NKP		2	22	22	22	...	...	...	...	...	...	100.0
Muncie	NKP	(3)	2	18	18	18	...	...	...	...	...	...	100.0
Nappanee	B&O	(3)	2	21	21	20	1	...	...	...	...	...	95.2
Peru	C&O		1	25	25	18	5	0	0	1	2	3	72.0
Peru	CMStP&P-C&O		2	22	22	0	8	4	4	3	3	3	0.0
Richmond	PRR	K (1)	2	14	14	12	1	0	1	...	...	...	85.7
South Bend	GT	(3)	1	19	...	...	...	...	...	...	...	...	.....
South Bend	NYC	D	1	22	22	22	...	...	...	...	...	...	100.0
South Bend	Wab-NJI&I	(3)	1	7	7	7	...	...	...	...	...	...	100.0
Terre Haute	C&EI		1	27	27	6	16	0	5	...	...	2	22.2
Terre Haute	CMStP&P		2	26	...	...	...	...	...	...	...	...	.....
Vincennes	C&EI	(3)	2	16	16	3	13	...	...	...	...	13	18.7
IOWA													
Ames	C&NW	(2)	1	13	13	4	9	...	...	...	...	...	30.7
Boone	C&NW	(2)	1	13	13	4	9	...	...	...	...	...	30.7
Burlington	CB&Q		1	54	51	45	5	1	...	...	...	...	88.2
Carroll	C&NW	(2)	2	13	13	9	4	...	...	...	...	3	69.2
Cedar Rapids	CMStP&P		1	33	32	9	17	5	1	...	...	...	28.1
Cedar Rapids	CMStP&P	B (3)	1	21	21	6	14	0	1	...	...	...	28.5
Cedar Rapids	C&NW	(2)	1	44	44	35	9	...	...	...	...	...	79.5
Cedar Rapids	CRI&P		1P	33	33	11	11	2	8	1	...	...	33.3
Cedar Rapids	IC	(3)	2	20	20	17	3	...	...	...	...	...	85.0
Charles City	IC	# (3)	2	14	14	8	6	...	...	...	...	...	57.1
Cherokee	IC	(3)	2	21	21	17	1	0	3	...	...	...	80.9
Clinton	C&NW	(2)	1	23	23	19	3	1	...	...	...	1	82.6
Creston	CB&Q		2	24	19	19	...	...	...	...	...	...	100.0
Davenport	CB&Q		1	22	21	21	...	...	...	...	...	...	100.0
Davenport	CMStP&P		1	28	28	28	...	...	...	...	...	...	100.0
Davenport	CRI&P		1	48	48	43	5	...	...	...	...	...	89.5
Des Moines	C&NW	(2)	1P	41	41	14	27	...	...	...	...	...	34.1
Des Moines	CRI&P		1P	61	61	50	11	...	...	...	...	...	81.9
Des Moines	CB&Q	(3)	2	16	16	14	1	0	1	...	...	...	87.5
Des Moines	CMStP&P		2	24	23	18	5	...	...	...	...	4	78.2
Dubuque	CB&Q		1	23	22	10	12	...	...	...	...	...	45.4
Dubuque	CGW	(3)	1	20	20	20	...	...	...	...	...	...	100.0
Dubuque	CMStP&P		1	25	24	6	12	2	3	1	...	...	25.0
Dubuque	CMStP&P	B (3)	1	21	21	4	13	0	3	1	...	...	19.0
Dubuque	IC	(3)	1	20	20	9	11	...	...	...	...	1	45.0
Eagle Grove	C&NW	(2)	2	13	13	4	9	...	...	...	...	3	30.7
Estherville	CRI&P	(3)	2	16	16	0	15	0	1	...	...	...	0.0
Fort Dodge	CGW	(3)	2	6	...	...	...	...	...	...	...	...	.....
Fort Dodge	C&NW-FDDM&S	(2)	2	13	13	10	2	0	1	...	...	...	76.9
Fort Dodge	IC		2	30	30	30	...	...	...	...	...	...	100.0
Fort Madison	AT&SF		1	36	35	34	0	0	1	...	...	...	97.1
Iowa City	CRI&P	(3)	1	20	20	13	7	...	...	...	...	...	65.0
Iowa Falls	CRI&P	(3)	1P	10	10	1	2	3	0	4	...	...	10.0
Keokuk	CB&Q	(3)	1	21	...	...	...	...	...	...	...	...	.....
Marshalltown	C&NW	(2)	1	19	19	9	10	...	...	...	...	...	47.3
Mason City	CMStP&P		2	25	25	18	6	0	1	...	...	...	72.0
Mason City	C&NW	(2)	2	20	20	19	1	...	...	...	...	...	95.0
Muscatine	CRI&P	D	1	22	22	22	...	...	...	...	...	...	100.0
Muscatine	CMStP&P	(3)	1P	19	18	2	11	4	0	0	1	1	11.1
Newton	CRI&P	(3)	1	9	9	4	5	...	...	...	...	...	44.4
Oelwein	CGW	(3)	1	21	21	1	1	5	3	4	7	...	4.7
Onawa	C&NW	(2)	2	13	13	3	9	1	...	...	...	1	23.0
Oskaloosa	AT&SF-M&StL	(3)	2	11	11	10	1	...	...	...	...	...	90.9
Ottumwa	CB&Q		1P	29	24	18	3	2	1	...	...	...	75.0
Ottumwa	CMStP&P		1P	22	21	4	10	2	4	1	...	...	19.0
Ottumwa	CRI&P	(3)	1P	12	12	3	3	5	1	...	...	...	25.0
Perry	CMStP&P		1P	39	39	5	34	...	...	...	...	33	12.8

★ - See Page 1 for explanation of Time Schedule and method of determining Package Car performance.
\# - See Changes in Service, Page 15.
B - Refrigerator only.
D - Daily truck service.
K - Scheduled refrigerated container service available.
P - Some of the delays are attributed to severe Snow Storms.

(1) Through cars left Chicago Tuesday, Thursday and Saturday.
(2) Through cars left Chicago Monday, Wednesday and Friday.
(3) Through cars did not operate daily.

PERFORMANCE RECORD OF CHICAGO PACKAGE CARS DURING JANUARY, 1952

(F&R. 2450 — p. 1852

DESTINATION	VIA	References	Time Schedule ★ (In Days)	Number of Cars Forwarded	NUMBER OF CARS REPORTED								Per Cent Unloaded On Time
					Total Number	Unloaded on Time	Unloaded 1 Day Late	Unloaded 2 Days Late	Unloaded 3 Days Late	Unloaded 4 Days Late	Unloaded 5 or More Days Late	Late Due to Delay in Placement	
IOWA--Concluded													
Sioux City	CMStP&P		2	47	45	38	4	0	3	...	...	3	84.4
Sioux City	C&NW	(2)	2	33	33	22	6	0	5	...	...	...	66.6
Sioux City	IC	(3)	2	15	15	10	2	0	3	...	...	...	66.6
Waterloo	CGW	(3)	1P	15	...	...	...	...	...	...	...	...	.....
Waterloo	C&NW-WCP&N	(2)	1P	13	13	2	4	0	0	5	2	...	15.3
Waterloo	CRI&P	(3)	1P	14	14	4	6	1	2	1	...	...	28.5
Waterloo	IC		1P	54	54	51	3	...	...	...	...	...	94.4
Webster City	C&NW	(2)	2	13	13	13	...	...	...	...	...	...	100.0
KANSAS													
Belleville	CRI&P	(3)	2	16	16	1	4	6	2	1	2	5	6.2
Chanute	AT&SF	(3)	2	20	20	14	4	2	...	...	...	...	70.0
Dodge City	AT&SF	(3)	2P	21	21	19	1	0	1	...	...	...	90.4
Emporia	AT&SF	(3)	2	19	19	18	1	...	...	...	...	...	94.7
Hutchinson	AT&SF	(3)	2	21	21	20	1	...	...	...	...	...	95.2
Hutchinson	CRI&P	(3)	2	7	7	1	3	3	...	...	...	...	14.2
Liberal	CRI&P	(3)	2	8	8	0	3	1	3	0	1	...	0.0
Salina	AT&SF	(3)	2	13	13	11	1	1	...	...	...	...	84.6
Topeka	AT&SF		2	46	45	39	6	...	...	...	...	...	86.6
Topeka	C&NW-UP	(2)	2	17	17	2	8	0	7	...	...	3	11.7
Wichita	AT&SF		2	47	...	...	...	...	...	...	...	...	.....
Wichita	CRI&P	(2)	2	12	12	11	0	1	...	...	...	...	91.6
Wichita	CMStP&P-AT&SF		3	22	...	...	...	...	...	...	...	...	.....
KENTUCKY													
Ashland	C&O		2	32	32	21	8	0	3	...	...	8	65.6
Corbin	C&O-L&N	(3)	2	19	19	7	11	0	1	...	...	...	36.8
Fulton	IC	# (3)	1P	16	...	...	...	...	...	...	...	...	.....
Lexington (L&N)	C&O	(3)	2	16	16	8	7	0	0	1	...	...	50.0
Louisville	CI&L		2	22	22	22	...	...	...	...	...	...	100.0
Louisville	C&EI-L&N	(3)	2	18	...	...	...	...	...	...	...	...	.....
Louisville	CMStP&P-CI&L		2	23	23	5	7	2	6	2	1	...	21.7
Louisville	PRR	K	2	22	22	8	10	3	1	...	...	1	36.3
Louisville (L&N)	CI&L	(3)	2	13	...	...	...	...	...	...	...	...	.....
Louisville (L&N)	PRR	(3)	3	18	...	...	...	...	...	...	...	...	.....
Owensboro (L&N)	IC	(3)	3	20	19	18	1	...	...	...	...	...	94.7
Paducah	CB&Q-P&I	(3)	2	11	10	6	2	0	1	1	...	...	60.0
Paducah	IC		2	42	42	38	4	...	...	...	...	2	90.4
LOUISIANA													
Baton Rouge	IC		3	23	23	23	...	...	...	...	...	...	100.0
Monroe	IC	(3)	3	18	18	18	...	...	...	...	...	...	100.0
New Orleans	IC		3	53	53	52	1	...	...	...	...	1	98.1
New Orleans	IC	B	3	33	33	33	...	...	...	...	...	...	100.0
New Orleans (SP)	IC	(3)	3	21	21	18	1	1	1	...	...	1	85.7
Shreveport	IC		3	22	22	20	2	...	...	...	...	...	90.9
MAINE													
Portland	GT		4	27	...	...	...	...	...	...	...	...	.....
Portland	GT	B (5)	4	5	...	...	...	...	...	...	...	...	.....
Portland	Wab-MeC	(3)	4	18	18	10	5	1	1	1	...	1	55.5
***MARYLAND**													
Baltimore	B&O		2	57	50	46	3	0	0	1	...	...	92.0
Baltimore	B&O	B (3)	2	10	10	10	...	...	...	...	...	...	100.0
Baltimore	B&O	H (5)	2	4	4	4	...	...	...	...	...	...	100.0
Baltimore	PRR		2	26	26	3	9	7	3	2	2	2	11.5
Baltimore	CMStP&P-B&O		4	22	21	13	4	3	0	0	1	...	61.9
Cumberland	B&O		2	37	37	36	1	...	...	...	...	...	97.2
Cumberland	B&O	B (17)	2	9	9	9	...	...	...	...	...	...	100.0
MASSACHUSETTS													
Boston	NYC-D&A		3	23	...	...	...	...	...	...	...	...	.....
Boston	GT-B&M	(R) (3)	3	14	13	11	2	...	...	...	...	2	84.6
Springfield	NYC-B&A		3	22	...	...	...	...	...	...	...	...	.....
Springfield	NC-B&A	B (17)	3	8	...	...	...	...	...	...	...	...	.....
Worcester	NYC-B&A	(3)	3	21	20	2	14	3	0	1	...	2	10.0

★ - See Page 1 for explanation of Time Schedule and method of determining Package Car performance.
\# - See Changes in Service, Page 15.
B - Refrigerator only.
H - Heater Service.
K - Scheduled refrigerated container service available.

(R) Daily refrigerator service available.
(2) Through cars left Chicago Monday, Wednesday and Friday.
(3) Through cars did not operate daily.
(5) Through cars left Chicago Friday only.
(17) Through cars left Chicago Tuesday and Friday.
* Some of the delays are attributed to severe Snow Storms.

(FA 2451 - p. 1809)

DESTINATION	VIA	References	Time Schedule * (In Days)	Number of Cars Forwarded	NUMBER OF CARS REPORTED								Per Cent Unloaded On Time
					Total Number	Unloaded on Time	Unloaded 1 Day Late	Unloaded 2 Days Late	Unloaded 3 Days Late	Unloaded 4 Days Late	Unloaded 5 or More Days Late	Late Due to Delay in Placement	
MICHIGAN													
Adrian	Wab.	(3)	1P	10	10	4	4	2	...	...	..3	...	40.0
Battle Creek	GT	(3)	1	18	...	...	...	...	...	...	...	...	.....
Battle Creek	GT	B (3)	1	21	...	...	...	...	...	...	...	...	.....
Battle Creek	MC	(3)	1	13	13	10	3	...	...	...	...	...	76.9
Bay City	GT	(R)	1	26	26	26	...	...	...	...	...	...	100.0
Bay City	MC	(3)	1	11	11	3	4	1	3	...	...	...	27.2
Benton Harbor	PM	(3)	1	10	10	4	6	...	...	...	...	...	40.0
Channing	CMStP&P		2	40	40	35	5	...	...	...	...	...	87.5
Detroit	GT		1	33	...	...	...	...	...	...	...	...	.....
Detroit	GT	B (3)	1	14	...	...	...	...	...	...	...	...	.....
Detroit	PM	(3)	1	19	...	...	...	...	...	...	...	...	.....
Detroit	Wab.		1P	22	...	...	...	...	...	...	...	...	.....
Detroit	MC		2	47	47	45	2	...	...	...	...	...	95.7
Detroit	MC	B (3)	2	21	21	19	2	...	...	...	...	...	90.4
Detroit	NYC-MC		2	27	25	9	12	0	4	...	...	10	36.0
Durand	GT	(R)	1	31	...	...	...	...	...	...	...	...	.....
Escanaba	C&NW	(2)	2	19	19	7	12	...	...	...	...	...	36.8
Flint	GT	(3)	1	16	...	...	...	...	...	...	...	...	.....
Flint	GT	B	1	22	...	...	...	...	...	...	...	...	.....
Gladstone	Soo	(3)	3	20	15	9	2	4	...	...	...	...	60.0
Grand Rapids	GT	(3)	1	5	...	...	...	...	...	...	...	...	.....
Grand Rapids	PM		1	40	...	...	...	...	...	...	...	...	.....
Grand Rapids	PRR	(3)	2	12	12	2	9	0	0	0	1	5	16.6
Holland	PM	(3)	1	9	9	1	7	1	...	...	...	...	11.1
Iron Mountain	C&NW	(2)	2	16	16	5	3	0	8	...	...	...	31.2
Ironwood	C&NW	(2)	2	14	14	1	11	2	...	...	...	...	7.1
Ishpeming	C&NW	(2)	2	13	13	5	5	2	0	1	...	...	38.4
Jackson	MC	(3)	1	18	18	5	11	0	2	...	...	2	27.7
Jackson	MC	B (3)	1	9	9	1	5	0	3	...	...	1	11.1
Kalamazoo	GT	(5)	1	4	4	2	2	...	...	...	...	...	50.0
Kalamazoo	MC	(3)	1	15	15	15	...	...	...	...	...	...	100.0
Lansing	GT	(3)	1	3	...	...	...	...	...	...	...	...	.....
Lansing	GT	B	1	22	...	...	...	...	...	...	...	...	.....
Marquette	C&NW-DSS&A	(2)	2	13	13	6	3	1	1	2	...	...	46.1
Marquette	C&NW-LS&I	(2)	2	12	11	6	4	1	...	...	...	...	54.5
Muskegon	PM	(3)	2	10	10	7	3	...	...	...	...	...	70.0
Niles	MC	(3)	1	10	10	10	...	...	...	...	...	...	100.0
Pontiac	GT	(3)	1	16	...	...	...	...	...	...	...	...	.....
Pontiac	GT	B (26)	1	9	...	...	...	...	...	...	...	...	.....
Port Huron	GT		1	52	...	...	...	...	...	...	...	...	.....
Port Huron	GT	B (2)	1	13	...	...	...	...	...	...	...	...	.....
Royal Oak	GT	(3)	1	13	...	...	...	...	...	...	...	...	.....
Saginaw	GT	(R)	1	22	...	...	...	...	...	...	...	...	.....
Saginaw	PM		2	22	22	22	...	...	...	...	...	...	100.0
Sault Ste. Marie	Soo		2	25	25	25	...	...	...	...	...	...	100.0
*MINNESOTA													
Albert Lea	CMStP&P	(3)	2	21	21	16	4	1	...	...	...	...	76.1
Austin	CMStP&P		2	26	25	17	7	1	...	...	...	...	68.0
Brainerd	CB&Q-NP		3	24	24	16	6	1	0	1	...	...	66.6
Duluth	CB&Q-NP	(3)	2	12	11	4	2	2	3	...	...	...	36.3
Duluth	CMStP&P		2	52	50	16	12	9	8	2	3	2	32.0
Duluth	C&NW	(2)	2	15	15	15	...	...	...	...	...	...	100.0
Duluth	Soo		2	45	44	43	1	...	...	...	...	...	97.7
Duluth (DM&IR)	C&NW	(2)	2P	13	...	...	...	...	...	...	...	...	.....
Fairmont	C&NW	(2)	2	13	13	10	3	...	...	...	...	1	76.9
Mankato	C&NW	(2)	2	32	32	6	22	4	...	...	...	...	18.7
Minneapolis	CB&Q		2	40	36	28	5	0	3	...	...	...	77.7
Minneapolis	COW		2	(Freight handled by truck from St. Paul, Minn.)									
Minneapolis	CMStP&P		2	131	...	...	...	...	...	...	...	...	.....
Minneapolis	CMStP&P	B (3)	2	21	...	...	...	...	...	...	...	...	.....
Minneapolis	C&NW	(2)	2	43	43	32	8	3	...	...	...	...	74.4
Minneapolis	CRI&P		2	(Freight handled by truck from St. Paul, Minn.)									
Minneapolis	IC-M&StL		2	35	...	...	...	...	...	...	...	...	.....
Minneapolis	Soo		2	44	44	44	...	...	...	...	...	...	100.0
Minneapolis (GN)	CMStP&P		2	24	22	3	6	5	6	1	1	...	13.6
Minneapolis (NP)	C&NW	(2)	2	18	18	5	5	0	7	0	1	1	27.7
Owatonna	C&NW	(2)	2	13	13	5	8	...	...	...	...	...	38.4
Rochester	C&NW	(2)	2	14	14	8	5	0	0	1	...	...	57.1
St. Cloud	CB&Q-GN	(3)	2	9	9	3	1	1	2	2	...	...	33.3
St. Paul	CB&Q		2	43	43	40	1	2	...	...	...	1	93.0
St. Paul	COW		2	24	...	...	...	...	...	...	...	...	.....
St. Paul	CMStP&P		2	27	26	20	2	0	3	0	1	3	76.9
St. Paul	C&NW	(2)	2	44	44	35	9	...	...	...	...	...	79.5
St. Paul	CRI&P	(3)	2	18	...	...	...	...	...	...	...	...	.....
St. Paul	Soo		2	35	34	30	3	0	1	...	...	...	88.2
St. Paul	Soo	B (3)	2	9	8	8	...	...	...	...	...	...	100.0
St. Paul (GN)	CB&Q		2	37	35	33	2	...	...	...	...	...	94.2
St. Paul (NP)	CB&Q		2	33	24	14	5	0	5	...	...	1	58.3

★ - See Page 1 for explanation of Time Schedule and method of determining Package Car performance.
B - Refrigerator only.
(2) Through cars left Chicago Monday, Wednesday and Friday.
(3) Through cars did not operate daily.
(5) Through cars left Chicago Friday only.
(26) Through cars left Chicago Wednesday and Friday.
(R) Daily refrigerator service available.
* Some of the delays are attrivuted to severe Snow Storms.

PERFORMANCE RECORD OF CHICAGO PACKAGE CARS DURING JANUARY, 1952

I.F.C. 2452 - P. 131

DESTINATION	VIA	References	Time Schedule ★ (In Days)	Number of Cars Forwarded	NUMBER OF CARS REPORTED								Per Cent Unloaded On Time
					Total Number	Unloaded on Time	Unloaded 1 Day Late	Unloaded 2 Days Late	Unloaded 3 Days Late	Unloaded 4 Days Late	Unloaded 5 or More Days Late	Late Due to Delay in Placement	
MINNESOTA--Concluded													
St. Paul (NP)	CMStP&P	(3)	2	21	21	7	9	1	4	...	...	...	33.3
St. Paul (GN)	C&NW	(2)	2	24	23	21	2	...	...	...	...	...	91.3
Thief River Falls	Soo		3	23	23	18	3	1	0	0	1	...	78.2
Tracy	C&NW	(2)	2	13	13	6	7	...	...	...	...	2	46.1
Winona	C&NW	(2)	2	13	13	5	4	1	3	...	...	1	38.4
Worthington	C&NW	(2)	2	13	13	5	8	...	...	...	...	...	38.4
MISSISSIPPI													
Artesia	GM&O	(3)	2	16	16	3	13	...	...	...	...	...	18.7
Hattiesburg	IC	(3)	3	20	20	18	2	...	...	...	...	...	90.0
Jackson	IC		2	48	48	36	12	...	...	...	...	7	75.0
Jackson	IC	B (7)	2	8	8	8	...	...	...	...	...	...	100.0
Jackson	GM&O	(3)	3	15	15	9	5	1	...	...	...	1	60.0
McComb	IC	(3)	3	17	17	17	...	...	...	...	...	...	100.0
Meridian	IC	(3)	3	19	19	18	1	...	...	...	...	...	94.7
Vicksburg	IC	# (3)	3	17	17	17	...	...	...	...	...	...	100.0
MISSOURI													
Chaffee	C&EI	(3)	2	13	13	12	1	...	...	...	...	...	92.3
Hannibal	Wab	(3)	1	16	16	4	12	...	...	...	...	1	25.0
Kansas City	AT&SP		1	126	123	108	14	1	...	...	...	4	87.8
Kansas City	CB&Q		2	30	...	...	...	...	...	...	...	...	.....
Kansas City	CGW		2	23	23	23	...	...	...	...	...	...	100.0
Kansas City	CMStP&P		2	22	22	21	1	...	...	...	...	1	95.4
Kansas City	CMStP&P	B	2	22	21	20	1	...	...	...	...	1	95.2
Kansas City	C&NW-CRI&P	(2)	2	15	15	1	6	2	5	0	1	...	6.6
Kansas City	CRI&P		2	46	46	35	11	...	...	...	...	1	76.0
Kansas City	GM&O	(3)	2	17	17	17	...	...	...	...	...	...	100.0
Kansas City	IC-MP	# (3)	2	17	...	...	...	...	...	...	...	...	.....
Kansas City	Wab	(3)	2	14	14	12	1	0	0	1	...	1	85.7
Kansas City (AT&SF)	CMStP&P		2	23	20	8	11	0	1	...	...	2	40.0
Kansas City (CRI&P)	CMStP&P	(3)	2	20	18	4	14	...	...	...	...	2	22.2
Kansas City (KCS)	CMStP&P		2	23	21	17	3	0	1	...	...	...	80.9
Kansas City (MKT)	CMStP&P		2	24	16	5	8	0	3	...	...	...	31.2
Kansas City (MP)	CMStP&P		2	23	...	...	...	...	...	...	...	...	.....
Kansas City (SLSF)	CMStP&P	(3)	2	19	18	10	4	0	3	1	...	1	55.5
Mexico	GM&O	(3)	2	16	16	1	11	1	2	0	1	1	6.2
Moberly	Wab	(3)	2	3	3	3	...	...	...	...	...	...	100.0
St. Joseph	CB&Q		2	43	42	26	13	1	2	...	...	...	61.9
St. Louis	C&EI		1	43	43	12	26	0	5	...	...	...	27.9
St. Louis	Wab		1	47	47	9	37	0	1	...	...	2	19.1
St. Louis	Wab	B	1	22	22	4	18	...	...	...	...	1	18.1
St. Louis	C&NW-IT	(2)	1P	10	...	...	...	...	...	...	...	...	.....
St. Louis	CB&Q		2	38	...	...	...	...	...	...	...	...	.....
St. Louis	CMStP&P-NKP		2	22	17	6	9	0	2	...	...	2	35.2
St. Louis (MKT)	C&EI	(3)	1	11	11	4	7	...	...	...	...	...	36.3
St. Louis (MKT)	GM&O	(3)	1	12	11	3	5	1	1	1	...	...	27.2
St. Louis (MP) (Gratiot St.)	GM&O		1P	24	23	2	3	8	6	2	2	2	8.6
St. Louis (MP) (7th St.)	C&EI	(3)	1P	15	15	3	7	3	1	0	1	1	20.0
St. Louis (MP) (7th St.)	Wab	(3)	1P	20	20	3	6	7	2	2	...	3	15.0
St. Louis (SLSF)	GM&O	(3)	2	16	15	9	5	1	...	...	...	...	60.0
St. Louis (MP) (Gratiot St.)	IC		2	26	26	15	10	1	...	...	...	11	57.6
St. Louis (SLSF)	IC	(3)	2	21	21	6	8	2	1	1	3	14	28.5
Springfield	C&EI-SLSF	(3)	2	15	15	7	8	...	...	...	...	4	46.6
*MONTANA													
Billings	CB&Q-NP		4	23	20	14	3	2	0	0	1	...	70.0
Butte	CMStP&P	(26)	5	11	10	5	4	1	...	...	...	...	50.0
Great Falls	CB&Q-GN	(3)	5	10	10	5	4	0	1	...	...	1	50.0
Great Falls	CMStP&P	(26)	5	10	10	3	3	0	2	0	2	...	30.0
Harlowton	CMStP&P	(26)	5	10	10	4	3	1	1	0	1	...	40.0
Miles City	CMStP&P	(26)	4	10	10	6	2	0	1	1	...	...	60.0
Missoula	CMStP&P	(26)	5	10	9	1	5	2	1	...	...	...	11.1
NEBRASKA													
Alliance	CB&Q	(3)	3	19	17	14	3	...	...	...	...	...	82.3
Chadron	C&NW	(2)	2	13	13	1	11	1	...	...	...	...	7.6
Fremont	C&NW	(2)	2	12	12	10	1	0	1	...	...	...	83.3
Grand Island	CB&Q	(3)	2	13	...	...	...	...	...	...	...	...	.....

★ - See Page 1 for explanation of Time Schedule and method of determining Package Car performance.
\# - See Changes in Service, Page 15.
B - Refrigerator only.
* - Some of the delays are attributed to severe Snow Storms.

(2) Through cars left Chicago Monday, Wednesday and Friday.
(3) Through cars did not operate daily.
(7) Through cars left Chicago Monday and Friday.
(26) Through cars left Chicago Wednesday and Friday.

(Fr. 2453 - p. 1811)

DESTINATION	VIA	References	Time Schedule ★ (In Days)	Number of Cars Forwarded	NUMBER OF CARS REPORTED								Per Cent Unloaded On Time
					Total Number	Unloaded on Time	Unloaded 1 Day Late	Unloaded 2 Days Late	Unloaded 3 Days Late	Unloaded 4 Days Late	Unloaded 5 or More Days Late	Late Due to Delay in Placement	
NEBRASKA--Concluded													
Grand Island	C&NW-UP	(2)	2	11	11	6	4	0	1	...	...	...	54.5
Hastings	CB&Q		2	22	22	22	...	...	...	...	...	...	100.0
Lincoln	CB&Q		2	33	28	27	1	...	...	...	...	...	96.4
Lincoln	C&NW	(2)	2	13	13	6	3	2	2	...	...	...	46.1
Lincoln (CB&Q)	C&NW	(2)	2	14	13	6	5	0	2	...	...	...	46.1
Norfolk	C&NW	(2)	2	13	13	3	9	1	...	...	...	...	23.0
North Platte	CMStP&P-UP		3	26	24	17	7	...	...	...	...	3	70.8
North Platte	C&NW-UP	(2)	3	26	26	19	7	...	...	...	...	5	73.0
North Platte	IC-UP		3	22	22	17	5	...	...	...	...	3	77.2
Omaha	CB&Q		2	60	60	59	1	...	...	...	...	...	98.3
Omaha	CGW	(3)	2	11	11	1	4	6	...	...	...	...	9.6
Omaha	CMStP&P		2	23	23	17	4	0	2	...	...	...	73.9
Omaha	C&NW	(2)	2	37	37	37	...	...	...	...	...	...	100.0
Omaha	CRI&P	(3)	2	14	14	14	...	...	...	...	...	...	100.0
Omaha	IC		2	22	22	22	...	...	...	...	...	...	100.0
Omaha (UP)	CMStP&P	(3)	2	21	21	15	4	0	2	...	...	...	71.4
Omaha (UP)	C&NW	(2)	2	14	14	7	2	1	1	...	...	3	50.0
Scottsbluff	CB&Q	(3)	3	5	3	3	...	...	...	...	...	...	100.0
NEW JERSEY													
Croxton	Erie		3	38	38	36	2	...	...	...	...	...	94.7
Elizabethport	B&O-CofNJ	(3)	3	18	18	6	7	3	1	0	1	7	33.3
Jersey City	PRR	(1)	2	15	15	5	8	2	...	...	...	...	33.3
Jersey City	Erie		3	32	32	27	5	...	...	...	...	...	84.3
Newark	PRR	(1)	3	15	15	6	6	1	1	0	1	...	40.0
Trenton	CMStP&P-PRR		3	22	22	1	2	4	4	5	6	...	4.5
Trenton	PRR		3	26	26	5	13	6	2	...	...	4	19.2
NEW MEXICO													
Albuquerque	AT&SF		3	24	24	19	4	0	1	...	...	...	79.1
Clovis	AT&SF	(3)	2	15	15	9	5	1	...	...	...	...	60.0
Las Vegas	AT&SF	(3)	4	11	11	9	2	...	...	...	...	...	81.8
NEW YORK													
Albany	NYC		3	22	22	12	8	0	1	1	...	1	54.5
Albany	Erie-D&H		3	23	23	14	7	1	1	...	...	5	60.8
Albany	MC-NYC	B (17)	3	8	7	1	5	0	1	...	...	...	14.2
Binghamton	Erie		2	24	23	20	2	0	1	...	...	...	86.9
Binghamton	NYC-DL&W	(3)	3	14	14	2	7	3	2	...	...	...	14.2
Binghamton	NKP-DL&W		3	24	24	22	2	...	...	...	...	1	91.6
Binghamton	Wab-DL&W		3	24	23	15	8	...	...	...	...	4	65.2
Buffalo	Erie	(3)	2	18	18	10	8	...	...	...	...	...	55.5
Buffalo	NYC		2	27	27	3	14	3	6	1	...	21	11.1
Buffalo	NYC	B (3)	2	16	16	13	2	0	1	...	...	...	81.2
Buffalo	NKP	(3)	2	13	13	10	3	...	...	...	...	2	76.9
Buffalo	NKP	B (3)	2	21	21	12	9	...	...	...	...	8	57.1
Buffalo	Wab	(3)	2	21	...	...	...	...	...	...	...	...	.....
Buffalo	Wab	B (3)	2	18	...	...	...	...	...	...	...	...	.....
Buffalo	PRR	(3)	3	17	17	17	...	...	...	...	...	...	100.0
Elmira	Erie	(3)	2P	20	20	17	3	...	...	...	...	...	85.0
Hornell Tfr	Erie	(15)	3	41	41	40	1	...	...	...	...	...	97.5
Jamestown	Erie	(3)	3	21	21	19	2	...	...	...	...	...	90.4
Long Island City (LI)	PRR	(3)	3	20	20	6	3	5	4	1	1	1	30.0
Manchester	NKP-LV	(3)	2	13	13	4	6	0	3	...	...	2	30.7
Manchester	Wab-LV		2	24	24	8	10	1	3	1	1	5	33.3
Maybrook (NYNH&H)	Erie		3	40	40	33	7	...	...	...	...	...	82.5
Maybrook (NYNH&H)	B&O-L&H	(3)	3P	12	12	11	0	1	...	...	...	...	91.6
Mechanicville	Erie-B&M	(3)	3	11	11	10	1	...	...	...	...	...	90.9
Mechanicville	NYC-B&M		3	26	24	11	7	1	3	1	1	2	45.8
New York	Erie		2	(Freight handled by truck from Jersey City, N. J.)									
New York	NYC		3	24	24	13	10	1	...	...	...	1	54.1
New York	PRR		2	(Freight handled by truck from Jersey City, N. J.)									
New York	B&O	(3)	3	10	10	10	...	...	...	...	...	...	100.0
New York	MC-NYC	B (3)	3	14	14	12	2	...	...	...	...	...	85.7
Niagara Falls	NYC		2	22	...	...	...	...	...	...	...	...	.....
Rochester	Erie	(3)	2	16	16	11	4	0	1	...	...	...	68.7
Rochester	MC-NYC	B (3)	2	16	16	14	2	...	...	...	...	1	87.5
Rochester	NYC		2	23	23	1	8	9	4	1	...	5	4.3
Schenectady	NYC		3	22	22	12	7	1	1	1	...	1	54.5
Syracuse	MC-NYC	B (3)	3	16	16	16	...	...	...	...	...	...	100.0
Syracuse	NYC		3	45	45	23	17	3	1	1	...	...	51.1
Utica	CMStP&P-NYC		3	23	23	0	1	5	6	5	6	...	0.0
Utica	NYC		3	45	42	25	16	0	0	1	...	2	59.5
Utica	MC-NYC	B (3)	3	17	17	17	...	...	...	...	...	...	100.0
Watertown	NYC	(3)	3	16	15	5	8	1	1	...	...	...	33.3
Yonkers	NYC		3	22	22	13	9	...	...	...	...	...	59.0

★ - See Page 1 for explanation of Time Schedule and method of determining Package Car performance.
B - Refrigerator only.
(1) Through cars left Chicago Tuesday, Thursday and Saturday.
(2) Through cars left Chicago Monday, Wednesday and Friday.
(3) Through cars did not operate daily.
(15) Cars departing Chicago on Fridays will be unloaded A.M. Tuesdays account Hornell house not operating Monday A.M.
(17) Through cars left Chicago Tuesday and Friday.

PERFORMANCE RECORD OF CHICAGO PACKAGE CARS DURING JANUARY, 1952

I.C.C. 2454 - p. 181

DESTINATION	VIA	References	Time Schedule * (In Days)	Number of Cars Forwarded	NUMBER OF CARS REPORTED								Per Cent Unloaded On Time
					Total Number	Unloaded on Time	Unloaded 1 Day Late	Unloaded 2 Days Late	Unloaded 3 Days Late	Unloaded 4 Days Late	Unloaded 5 or More Days Late	Late Due to Delay in Placement	
NORTH CAROLINA													
Hamlet	C&O-SAL	(3)	3	15	...	...	...	...	...	...	...	...	.....
Henderson	C&O-SAL	(3)	4	18	18	13	5	...	...	...	...	3	72.2
South Rocky Mount	C&O-ACL		3	24	24	21	3	...	...	...	...	...	87.5
Spencer Tfr	C&O-Sou	(3)	3	20	20	20	...	...	...	...	...	...	100.0
Spencer Tfr	CI&L-Sou	(3)	3	21	21	21	...	...	...	...	...	...	100.0
*NORTH DAKOTA													
Fargo	CB&Q-GN	(3)	3	19	17	15	1	0	1	...	...	1	88.2
Fargo	CB&Q-NP		3	25	24	16	3	1	2	1	1	...	66.6
Fargo	CMStP&P		3	23	21	2	9	6	2	0	2	...	9.5
Fargo	C&NW-GN	(2)	3	14	14	9	1	1	1	2	...	1	64.2
Grand Forks	CB&Q-GN	(3)	3	19	19	15	1	1	1	1	...	...	78.9
Minot	CB&Q-GN		3P	22	...	...	...	...	...	...	...	...	.....
Minot	Soo	(3)	3P	17	17	10	6	1	...	...	...	...	58.8
*OHIO													
Akron	B&O		1	38	38	38	...	...	...	...	...	...	100.0
Akron	B&O	B (17)	1	9	9	8	1	...	...	...	...	...	88.8
Akron	Erie		2	36	36	33	2	0	1	...	...	...	91.6
Akron	PRR	(1)	2	14	14	4	6	3	1	...	...	...	28.5
Bryan	NYC	(5)	2	5	5	3	2	...	...	...	...	...	60.0
Canton	PRR	K (1)	2	16	16	15	1	...	...	...	...	...	93.7
Cincinnati	C&O		1	23	22	7	12	0	3	...	...	...	31.8
Cincinnati	C&O	B (3)	1	12	12	3	9	...	...	...	...	...	25.0
Cincinnati	B&O		2	52	52	52	...	...	...	...	...	...	100.0
Cincinnati	B/A	(3)	2	17	17	13	4	...	...	...	...	...	76.4
Cincinnati	NYC-B/A	(3)	2	15	15	7	8	...	...	...	...	...	46.6
Cincinnati	PRR		2	26	26	6	17	2	0	1	...	13	23.0
Cincinnati	CMStP&P-B&O		2P	26	25	10	11	1	1	2	...	...	40.0
Cincinnati (Sou)	C&O	(3)	1	19	19	4	6	6	2	1	...	5	21.0
Cincinnati (Sou)	B/A	# (3)	2	16	16	8	7	0	0	1	...	3	50.0
Cincinnati (Sou)	NYC-B/A	(3)	2	14	14	3	7	2	2	...	...	7	21.4
Cincinnati (L&N)	B&O	(3)	3	18	14	4	8	0	0	1	1	9	28.5
Cincinnati (Sou)	B&O	(3)	3	17	13	8	3	2	...	...	...	...	61.5
Cincinnati (Sou)	PRR	(3)	3	16	15	1	8	3	1	1	1	6	6.6
Cleveland	B&O	(3)	2	18	18	16	1	1	...	...	...	...	88.8
Cleveland	CMStP&P-NYC		2	24	...	...	...	...	...	...	...	...	.....
Cleveland	NYC		2	48	...	...	...	...	...	...	...	...	.....
Cleveland	NYC	B (3)	2	14	...	...	...	...	...	...	...	...	.....
Cleveland	NKP		2	31	29	28	1	...	...	...	...	...	96.5
Cleveland	NKP	B (3)	2	18	18	18	...	...	...	...	...	...	100.0
Cleveland	PRR	(3)	2	21	21	6	7	7	0	1	...	...	28.5
Columbus	B&O	(3)	2	21	21	21	...	...	...	...	...	...	100.0
Columbus	NYC		2	24	...	...	...	...	...	...	...	...	.....
Columbus	PRR		2	53	49	20	21	4	2	1	1	21	40.8
Dayton	B&O	(3)	2	15	15	15	...	...	...	...	...	...	100.0
Dayton	PRR	(3)	2	18	18	16	0	1	0	0	1	...	88.8
Defiance	B&O	(3)	2	14	14	10	4	...	...	...	...	3	71.4
Deshler	B&O	(3)	2	20	19	11	6	0	2	...	...	5	57.8
Fostoria	NKP	(3)	1	14	14	3	11	...	...	...	...	...	21.4
Fostoria	B&O	(3)	2	17	17	17	...	...	...	...	...	...	100.0
Lima	Erie	(3)	1	16	16	16	...	...	...	...	...	...	100.0
Lima	PRR	K (3)	2	19	19	19	...	...	...	...	...	...	100.0
Marion	Erie	(3)	2	20	20	18	1	1	...	...	...	2	90.0
Newark	B&O	(3)	?	21	21	21	...	...	...	...	...	...	100.0
Portsmouth	B&O-N&W	(3)	?	17	17	8	8	1	...	...	..	...	47.0
Portsmouth	C&O-N&W	(3)	2	21	21	10	9	1	1	...	...	...	47.6
Portsmouth	B/A-N&W		2	22	22	22	...	...	...	...	...	...	100.0
Portsmouth	NYC-N&W	(3)	2	11	11	9	2	...	...	...	...	...	81.8
Portsmouth	PRR-N&W	(1)	2	14	14	12	2	...	...	...	...	...	85.7
Springfield	B/A	# (3)	2	15	15	10	5	...	...	...	...	1	66.6
Steubenville	PRR	(1)	2	14	14	6	6	2	...	...	...	1	42.8
Tiffin	B&O		1	23	23	20	3	...	...	...	...	...	86.9
Toledo	Wab		1	23	23	5	15	...	...	...	...	1	21.7
Toledo	B&O		2	25	25	24	1	...	...	...	...	1	96.0
Toledo	NYC		1	31	29	6	13	6	3	1	...	...	20.6
Toledo	NYC	B (3)	1	21	21	5	11	0	5	...	...	2	23.8
Toledo	PRR	(1)	2	13	13	1	7	2	2	0	1	...	7.6
Youngstown	B&O	(3)	2	15	15	15	...	...	...	...	...	...	100.0
Youngstown	Erie	# (3)	2	12	12	2	9	1	...	...	...	...	16.6
Youngstown	PRR	(1)	2	13	13	4	8	1	...	...	...	...	30.7
OKLAHOMA													
Oklahoma City	AT&SF		2	28	28	26	2	...	...	...	...	...	92.8
Oklahoma City	CRI&P	(3)	2P	20	20	1	6	4	6	2	1	2	5.0
Tulsa	C&EI-SLSF	(3)	2	11	11	9	2	...	...	...	...	...	81.8

* - See Page 1 for explanation of Time Schedule and method of determining Package Car performance.
\# - See Changes in Service, Page 15.
B - Refrigerator only.
K - Scheduled refrigerated container service available.
* - Some of the delays are attributed to severe Snow Storms.
% - Some of the delays are attributed to Floods.

(1) Through cars left Chicago Tuesday, Thursday and Saturday.
(2) Through cars left Chicago Monday, Wednesday and Friday.
(3) Through cars did not operate daily.
(5) Through cars left Chicago Friday only.
(17) Through cars left Chicago Tuesday and Friday.

(FR.2455 - p. 1813)

DESTINATION	VIA	References	Time Schedule ★ (In Days)	Number of Cars Forwarded	NUMBER OF CARS REPORTED								Per Cent Unloaded On Time
					Total Number	Unloaded on Time	Unloaded 1 Day Late	Unloaded 2 Days Late	Unloaded 3 Days Late	Unloaded 4 Days Late	Unloaded 5 or More Days Late	Late Due to Delay in Placement	
OREGON													
Portland	C&NW-UP	(2)	7	16	16	14	2	...	...	...	...	...	87.5
PENNSYLVANIA													
Altoona	PRR		2	33	...	...	...	...	....	...	...	...	.....
Altoona	PRR	B (3)	2	10	...	...	...	...	...	...	...	...	.....
Connellsville	B&O		2	26	26	25	1	...	...	...	...	...	96.1
Erie	NYC	# (3)	3	13	13	5	5	2	0	1	...	...	38.4
Erie	NYC	B (17)	3	9	9	9	...	...	...	...	...	...	100.0
Erie	NKP	(3)	3	10	10	7	2	0	1	...	...	2	70.0
Erie	PRR	(1)	3	14	14	14	...	...	...	...	...	...	100.0
Harrisburg	PRR		2	26	26	4	14	4	3	1	...	1	15.3
Harrisburg	PRR	B (3)	2	11	11	2	8	1	...	...	...	2	18.1
Johnstown	B&O	B (17)	2	9	9	7	2	...	....	...	...	...	77.7
Johnstown	PRR	K (3)	2	18	18	13	5	...	...	...	...	4	72.2
Lancaster	PRR	(1)	3	15	15	14	0	0	1	...	...	...	93.3
Meadville	Erie		2	23	23	22	1	...	...	...	...	...	95.6
Newberry Jct. (Read)	NYC	(1)	3	10	10	0	3	5	0	1	1	...	0.0
Philadelphia	B&O	(3)	2	21	21	17	1	0	2	1	...	...	80.9
Philadelphia	B&O	B (3)	2	15	15	14	1	...	...	...	...	...	93.3
Philadelphia	B&O	H (5)	2	3	3	3	...	...	...	...	...	...	100.0
Philadelphia	PRR		2	34	34	10	18	4	2	...	...	...	29.4
Philadelphia	PRR	B (1)	2	14	13	4	4	1	1	3	...	3	30.7
Philadelphia	CMStP&P-PRR		3	41	...	...	...	...	...	...	...	...	.....
Philadelphia Tfr.	PRR		2	32	32	8	19	0	4	1	...	2	25.0
Pittsburgh	B&O		2	53	50	46	0	2	2	...	...	1	92.0
Pittsburgh	B&O	B (3)	2	13	13	12	0	1	...	...	...	...	92.3
Pittsburgh	B&O	H (5)	2	4	4	4	...	...	...	...	...	...	100.0
Pittsburgh	CMStP&P-PRR		2	22	...	...	...	...	...	...	...	...	.....
Pittsburgh	NYC-P&LE	(3)	2	17	16	0	2	7	5	2	...	1	0.0
Pittsburgh	PRR		2	101	...	...	...	...	...	...	...	...	.....
Pittsburgh	PRR	B (3)	2	8	...	...	...	...	...	...	...	...	.....
Pittsburgh (PRR)	B&O	(3)	2	14	...	...	...	...	...	...	...	...	.....
Punxsutawney	B&O		2	25	25	23	2	...	...	...	...	1	92.0
Reading	NYC-Read	B (5)	3	5	...	...	...	...	...	...	...	...	.....
Scranton	NKP-DL&W	(3)	3	4	4	4	...	...	...	...	...	...	100.0
Scranton	Erie	(3)	4	14	14	11	3	...	...	...	...	...	78.5
Sharon	Erie	(3)	3	11	11	9	1	1	...	...	...	...	81.8
Wayne Jct	B&O-Read	(3)	3	18	...	...	...	...	...	...	...	...	.....
Wayne Jct	PRR-Read	(3)	4	18	...	...	...	...	...	...	...	...	.....
Wilkes-Barre	PRR	(1)	3	13	13	9	2	1	1	...	...	...	69.2
Wilkes-Barre	Wab-LV	B (17)	3	9	9	8	1	...	...	...	...	...	88.8
Williamsport	PRR		3	26	...	...	...	...	...	...	...	...	.....
York	PRR	(3)	3	19	19	9	9	1	...	...	...	7	47.3
RHODE ISLAND													
Providence	GT-NYNH&H	B (5)	4	4	4	4	...	...	...	...	...	...	100.0
SOUTH CAROLINA													
Florence Tfr.	IC-ACL	(3)	4	21	21	20	1	...	...	...	...	...	95.2
Greenwood	IC-SAL	(3)	3	17	17	8	7	0	1	1	...	....	47.0
Spartanburg	C&O-CC&O	(3)	3	17	17	16	1	...	...	...	...	...	94.1
*SOUTH DAKOTA													
Aberdeen	CMStP&P		3	42	42	34	5	1	1	1	...	...	80.9
Aberdeen	C&NW	(2)	4	13	13	8	5	...	...	...	...	...	61.5
Brookings	C&NW	(2)	2P	13	13	13	...	...	...	...	...	...	100.0
Huron	C&NW	(2)	3	18	18	10	4	2	2	...	...	3	55.5
Mitchell	CMStP&P		2	26	26	17	8	1	...	...	...	...	65.3
Rapid City	CMStP&P	(3)	3	21	21	13	3	1	1	1	2	...	61.9
Rapid City	C&NW	(2)	3	15	15	3	10	2	...	...	...	...	20.0
Sioux Falls	CMStP&P		2	42	42	28	12	2	...	...	...	...	66.6
Sioux Falls	C&NW	(2)	2	14	14	13	1	...	...	...	...	...	92.8
Sioux Falls	IC	(3)	2	19	19	12	7	...	...	...	...	...	63.1
Watertown	C&NW	(2)	2	13	....	...	...	...	...	...	...	...	.....
TENNESSEE													
Chattanooga	C&EI-NC&StL	(3)	2	12	12	6	6	...	...	...	...	1	50.0
Chattanooga	CI&L-Sou	(3)	2	10	...	...	...	....	...	...	...	...	.....
Chattanooga	IC-NC&StL		2	23	23	13	9	1	...	...	...	2	56.5
Jackson	GM&O	(3)	2	16	16	7	4	3	1	1	...	1	43.7
Jackson	IC	(3)	2	21	21	19	1	0	1	...	...	...	90.4

★ - See Page 1 for explanation of Time Schedule and method of determining Package Car performance.
- See Changes in Service, Page 15.
B - Refrigerator only.
H - Heater service.
K - Scheduled refrigerated container service available.
● - Some of the delays are attributed to severe Snow Storms.

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PERFORMANCE RECORD OF CHICAGO PACKAGE CARS DURING JANUARY, 1952

(Fol. 2456 - p. 18)

DESTINATION	VIA	References	Time Schedule ★ (In Days)	Number of Cars Forwarded	NUMBER OF CARS REPORTED								Per Cent Unloaded On Time
					Total Number	Unloaded on Time	Unloaded 1 Day Late	Unloaded 2 Days Late	Unloaded 3 Days Late	Unloaded 4 Days Late	Unloaded 5 or More Days Late	Late Due to Delay in Placement	
TENNESSEE--Concluded													
John Sevier	CI&L-Sou	(3)	2P	15	15	12	3	...	...	...	...	2	80.0
Johnson City	C&O-CC&O	(3)	2P	16	16	3	10	0	3	...	...	5	18.7
Memphis	IC		1P	101	101	75	14	0	10	0	2	...	74.2
Memphis	IC	B	1P	29	29	21	6	0	2	...	...	...	72.4
Memphis	C&EI-MP	(3)	2	16	16	4	7	1	3	1	...	...	25.0
Memphis	C&EI-SLSF	(3)	3	13	10	2	1	4	3	...	...	1	20.0
Memphis	CMStP&P-IC		2	22	22	3	6	3	6	4	...	...	13.6
Memphis	C&NW-MP	(2)	2	15	15	2	6	4	3	...	...	...	13.3
Memphis (SLSF)	IC	# (3)	2	9	8	8	...	...	...	...	...	...	100.0
Nashville	C&EI-L&N		2	25	16	12	2	0	2	...	...	...	75.0
Nashville	IC-NC&StL		2	27	27	26	1	...	...	...	...	1	96.2
Nashville	IC-NC&StL	B (28)	2	9	9	7	2	...	...	...	...	...	77.7
Nashville	IC-TC	(3)	2	19	19	6	9	0	4	...	...	...	31.5
TEXAS													
Amarillo	AT&SF		2	36	35	26	9	...	...	...	...	...	74.2
Dallas	AT&SF	(3)	2	20	20	15	5	...	...	...	...	...	75.0
Dallas	C&EI-MKT	(3)	3	11	11	7	4	...	...	...	...	...	63.6
Dallas	Wab-T&P	(3)	3	10	...	...	...	...	...	...	...	...	.....
El Paso	AT&SF	(3)	3	17	17	13	3	1	...	...	...	...	76.4
El Paso	CRI&P-SP	(3)	4	16	...	...	...	...	...	...	...	...	.....
Fort Worth	AT&SF		2	33	33	29	3	0	0	1	...	...	87.8
Fort Worth	CRI&P	(3)	3	15	15	13	1	0	1	...	...	...	86.6
Houston	AT&SF	(3)	3	17	15	12	3	...	...	...	...	...	80.0
Houston	C&EI-SP	(3)	3	10	10	4	4	2	...	...	...	...	40.0
Houston	Wab-MP	(17)	3	9	9	4	5	...	...	...	...	...	44.4
Houston	Wab-MP	B (3)	3	9	9	2	7	...	...	...	...	...	22.2
Houston	IC-SP	(3)	4	20	20	17	3	...	...	...	...	2	85.0
Lubbock	AT&SF	(3)	3	18	18	18	...	...	...	...	...	...	100.0
San Antonio	Wab-MP	(3)	4	13	13	6	7	...	...	...	...	...	46.1
San Antonio	Wab-MP	B (17)	4	9	9	8	1	...	...	...	...	...	88.8
Temple	AT&SF	(3)	3	16	15	14	1	...	...	...	...	...	93.3
UTAH													
Ogden	C&NW-UP	(2)	5	18	18	17	1	...	...	...	...	1	94.4
Salt Lake City	C&NW-UP	(2)	5	27	27	19	8	...	...	...	...	8	70.3
VERMONT													
St. Albans	GT-CV		3	32	32	24	8	...	...	...	...	5	75.0
St. Albans	GT-CV	B (5)	3	4	4	3	1	...	...	...	...	1	75.0
White River Jct	Wab-B&M	(3)	4	20	20	13	3	1	2	0	1	...	65.0
VIRGINIA													
Clifton Forge	C&O		3	22	22	15	4	2	0	1	...	5	68.1
Lynchburg	B/L-N&W	(3)	3	20	19	13	6	...	...	...	...	...	68.4
Lynchburg	PRR-N&W	(3)	3	17	17	15	2	...	...	...	...	...	88.2
Newport News	C&O	(3)	3	21	21	14	6	0	1	...	...	3	66.6
Norfolk	C&O		3	28	28	18	8	1	1	...	...	...	62.0
Richmond	C&O		3	27	27	19	7	1	...	...	...	5	70.3
Roanoke	C&O-Vgn	(3)	3	11	11	9	0	2	...	...	...	...	81.8
Roanoke	B/L-N&W		3	22	22	15	7	...	...	...	...	5	68.1
Roanoke	PRR-N&W	(1)	3	17	17	12	4	0	1	...	...	1	70.5
WASHINGTON													
Seattle	CB&Q-GN	(3)	7	5	4	2	1	0	1	...	...	...	50.0
Seattle	CMStP&P		7	29	27	1	19	3	1	2	1	2	3.7
Spokane	CB&Q-GN	(3)	6	13	13	7	4	1	1	...	...	...	53.8
Spokane	CB&Q-NP	(3)	6	19	17	2	7	4	4	...	...	2	11.7
Spokane	CMStP&P	(3)	6	17	17	4	8	1	3	0	1	...	23.5
Tacoma	CMStP&P	(26)	7	10	10	2	5	0	3	...	...	...	20.0
$ WEST VIRGINIA													
Bluefield	B/L-N&W	B (17)	2	8	8	4	4	...	...	...	...	...	50.0
Charleston	C&O	(3)	2	20	18	11	5	0	2	...	...	2	61.1
Charleston	NYC	B (17)	2	8	...	...	...	...	...	...	...	...	.....
Clarksburg	B&O		3	26	26	24	0	2	...	...	...	...	92.3
Fairmont	B&O	(3)	2	7	7	6	1	...	...	...	...	...	85.7
Huntington	C&O		2	29	29	17	8	0	2	1	1	10	58.6
Huntington	C&O	B (5)	2	4	4	4	...	...	...	...	...	...	100.0

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* - Some of the delays are attributed to severe Snow Storms.
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(17) Through cars left Chicago Tuesday and Friday.
(26) Through cars left Chicago Tuesday and Friday.
(28) Through cars left Chicago Monday and Wednesday.

DESTINATION	VIA	References	Time Schedule ★ (In Days)	Number of Cars Forwarded ★	NUMBER OF CARS REPORTED								Per Cent Unloaded On Time
					Total Number	Unloaded on Time	Unloaded 1 Day Late	Unloaded 2 Days Late	Unloaded 3 Days Late	Unloaded 4 Days Late	Unloaded 5 or More Days Late	Late Due to Delay in Placement	
WEST VIRGINIA--Concluded													
Parkersburg	B&O		3P	25	23	23	...	...	...	...	...	...	100.0
Wheeling	B&O		2	28	28	24	2	1	1	...	...	...	85.7
Wheeling	B&O	B (3)	2	8	8	8	...	...	...	...	...	...	100.0
WISCONSIN													
Antigo	C&NW	(2)	1P	20	20	7	13	...	...	...	...	...	35.0
Appleton	CMStP&P		1	22	21	5	14	0	2	...	...	...	23.8
Appleton	C&NW	(2)	1	26	...	...	...	...	...	...	...	...	.....
Baraboo	C&NW	(2)	1P	12	...	...	...	...	...	...	...	...	.....
Beloit	CMStP&P		1	27	26	19	7	0	1	...	...	1	69.2
Beloit	C&NW	(2)	1	20	20	20	...	...	...	...	...	...	100.0
Burlington	Soo	(3)	1	18	18	18	...	...	...	...	...	...	100.0
Chippewa Falls	Soo	(3)	2	21	20	17	3	...	...	...	...	1	85.0
Durand	CMStP&P		2	24	22	11	8	2	1	...	...	...	50.0
Eau Claire	C&NW	(2)	1	26	26	26	...	...	...	...	...	...	100.0
Fond du Lac	C&NW	(2)	1	25	25	25	...	...	...	...	...	...	100.0
Fond du Lac	Soo	L (3)	1	19	18	18	...	...	...	...	...	...	100.0
Fort Atkinson	C&NW	(2)	1	13	13	9	4	...	...	...	...	...	69.2
Green Bay	CMStP&P		1	24	24	9	9	1	4	0	1	...	37.5
Green Bay	C&NW	(2)	1	50	...	...	...	...	...	...	...	...	.....
Janesville	CMStP&P		1	65	65	62	3	...	...	...	...	...	95.3
Janesville	C&NW	(2)	1	15	15	8	7	...	...	...	...	...	53.3
Kaukauna	C&NW	(2)	1	13	13	2	11	...	...	...	...	...	15.3
Kenosha	C&NW	(2)	1	32	32	20	12	...	...	...	...	...	62.5
La Crosse	CB&Q		1P	22	...	...	...	...	...	...	...	...	.....
La Crosse	CMStP&P		1P	26	25	25	...	...	...	...	...	...	100.0
La Crosse	CMStP&P	B	1P	22	21	21	...	...	...	...	...	...	100.0
La Crosse	C&NW	(2)	1P	22	22	22	...	...	...	...	...	...	100.0
Lake Geneva	C&NW	(3)	1	12	12	2	8	0	1	0	1	...	16.6
Madison	CMStP&P		1	34	...	...	...	...	...	...	...	...	.....
Madison	CmatP&P	B	1	23	...	...	...	...	...	...	...	...	.....
Madison	C&NW	(2)	1	34	34	16	10	2	2	4	...	4	47.0
Madison	IC	(3)	1	20	20	13	6	1	...	...	...	...	65.0
Manitowoc	C&NW	(2)	1	16	16	10	6	...	...	...	...	...	62.5
Marinette	C&NW	(2)	1P	20	20	6	1	8	5	...	...	...	30.0
Marshfield	C&NW	(2)	2	13	13	6	7	...	...	...	...	...	46.1
Merrill	CMStP&P	(3)	1P	20	20	0	10	8	2	...	...	...	0.0
Milwaukee	CMStP&P		1	119	119	119	...	...	...	...	...	...	100.0
Milwaukee	CMStP&P	B (3)	1	21	21	21	...	...	...	...	...	...	100.0
Milwaukee	C&NW		1	149	149	149	...	...	...	...	...	...	100.0
Neenah-Menasha	C&NW	(2)	1	13	13	8	3	1	0	1	...	1	61.5
Neenah-Menasha	Soo	L	1	46	46	37	7	0	2	...	...	...	80.4
New London	C&NW	(2)	1	13	13	10	3	...	...	...	...	...	76.9
Oshkosh	C&NW	(2)	1	16	16	6	10	1	0	0	1	1	33.3
Oshkosh	Soo	L (3)	1	21	21	19	2	...	...	...	...	...	90.4
Plymouth	CMStP&P	(3)	1	21	21	16	4	0	1	...	...	...	76.1
Portage	CMStP&P		1	47	46	42	2	2	...	...	...	...	91.3
Racine	CMStP&P	(3)	1	21	21	21	...	...	...	...	...	...	100.0
Racine	C&NW	(2)	1	32	32	32	...	...	...	...	...	...	100.0
Rhinelander	C&NW	(2)	2	13	13	13	...	...	...	...	...	...	100.0
Rhinelander	Soo	(3)	2	21	21	19	2	...	...	...	...	...	90.4
Sheboygan	C&NW	(2)	1	29	29	16	13	...	...	...	...	...	55.1
Sparta	C&NW	(2)	2	13	12	9	1	2	...	...	...	...	75.0
Spooner	C&NW	(2)	2	11	11	6	4	1	...	...	...	...	54.5
Stevens Point	Soo		1	69	69	39	26	0	1	...	...	...	56.5
Stevens Point	Soo	B (2)	1	17	17	14	3	...	...	...	...	...	82.3
Superior	CB&Q-GN		2	28	28	10	9	0	9	...	...	...	35.7
Superior	C&NW	(2)	2	13	13	2	3	4	4	...	...	2	15.3
Two Rivers	C&NW	(2)	1	13	13	7	6	...	...	...	...	...	53.8
Watertown	CMStP&P		1	22	22	17	4	1	...	...	...	...	77.2
Watertown	C&NW	(2)	1	13	13	0	9	3	0	0	1	...	0.0
Waukesha	C&NW	(2)	1	13	13	10	2	1	...	...	...	...	76.9
Waukesha	Soo		1	47	23	22	1	...	...	...	...	...	95.6
Wausau	CMStP&P		1P	24	24	6	17	1	...	...	...	...	25.0
Wausau	C&NW	(2)	1P	19	19	5	7	2	0	3	2	2	26.3
Wisconsin Rapids	C&NW	(2)	1P	13	...	...	...	...	...	...	...	...	.....
WYOMING													
Casper	CB&Q	(3)	3	21	16	15	1	...	...	...	...	...	93.7
Casper	C&NW	(2)	4	13	13	7	3	0	2	1	...	1	53.8
Cheyenne	C&NW-UP	(2)	3	15	15	7	7	0	1	...	...	1	46.6
Greybull	CB&Q	(3)	4	5	...	...	...	...	...	...	...	...	.....
Sheridan	CB&Q	(3)	3	4	3	3	...	...	...	...	...	...	100.0

★ - See Page 1 for explanation of Time Schedule and method of determining Package Car performance.
B - Refrigerator only.
L - Scheduled refrigerated container service available Monday, Wednesday and Friday.
(2) Through cars left Chicago Monday, Wednesday and Friday.
(3) Through cars did not operate daily.

{FA 2458 -- p.14

LOCATION OF CHICAGO DISTRICT FREIGHT STATIONS WHERE LINE HAUL CARRIERS ACCEPT FREIGHT FOR PACKAGE CAR LOADING

Railroad	Location	Telephone	Name of Agent
Atchison, Topeka & Santa Fe.	State St. & Roosevelt Road.	HA rrison 7-4900. . .	F. C. Kilroy
	39th St. & Central Park Avenue. . .	HA rrison 7-4900. . .	F. C. Kilroy
Baltimore & Ohio	901 S. Wells Street	WA bash 2-2211. . . .	F. Francesconi
	76th Street & Oakley Avenue	HE mlock 4-7100 . . .	F. Francesconi
Chesapeake & Ohio.	333 East South Water Street	WA bash 2-1480. . . .	W. J. Slania
Chicago, Burlington & Quincy	Canal & Harrison Streets.	WA bash 2-2345. . . .	E. Cooley
Chicago & Eastern Illinois	55 West Roosevelt Road.	WA bash 2-2170. . . .	J. P. Wolfensberger
Chicago Great Western.	303 West Harrison Street.	WA bash 2-2661. . . .	P. G. Johnson
Chicago, Indianapolis & Louisville (Monon) .	836 Federal Street.	HA rrison 7-3303. . .	E. N. Thomas
Chicago, Milwaukee, St. Paul & Pacific . . .	349 N. Jefferson Street	CE ntral 6-7600 . . .	R. G. Larson
	Central & Armitage Avenues.	ME rrimac 7-4100. . .	A. E. Ward
Chicago & North Western.	1530 S. Jefferson Street.	DE arborn 2-2121. . .	H. R. Terpning
	Proviso, Illinois	DE arborn 2-2121. . .	J. F. Konout
Chicago, Rock Island & Pacific	156 West Taylor Street.	WA bash 2-3200. . . .	F. Lockwood
	123rd Street & Vincennes Avenue . .	WA bash 2-3200. . . .	F. Lockwood
Cleveland, Cincinnati, Chicago & St. Louis (Big 4) District (NYC).	211 East South Water Street.	WA bash 2-4811. . . .	A. P. Gorman
Erie	Clark & 14th Streets.	HA rrison 7-8051. . . .	G. J. Sheridan
Grand Trunk.	21 West Taylor Street	RA ndolph 6-5465. . .	H. A. Freeman
Gulf, Mobile & Ohio.	3710 S. California Avenue	DE arborn 2-2177. . .	E. E. Powell
Illinois Central	211 East South Water Street	WA bash 2-4811. . . .	A. P. Gorman
Michigan Central District (NYC).	120 East South Water Street	WA bash 2-4200. . . .	L. M. Smith
	Gibson Transfer, Indiana.	IN terocean 8-9430. .	L. W. Knoerzer
Minneapolis, St. Paul & Sault Ste. Marie (Soo Line).	Canal Street & Roosevelt Road . . .	CA nal 7-6800	R. D. Boettcher
	Schiller Park, Illinois	TU xedo 9-7550. . . .	R. D. Boettcher
New York Central	Polk & LaSalle Streets.	WA bash 2-4200. . . .	L. M. Smith
	Gibson Transfer, Indiana.	IN terocean 8-9430. .	L. W. Knoerzer
New York, Chicago & St. Louis (Nickel Plate)	333 East South Water Street	WA bash 2-2780. . . .	R. H. Jacobson
Pennsylvania	323 West Polk Street.	CE ntral 6-7200 . . .	W. G. Miller
Pere Marquette District (C&O).	13th & Lumber Streets	HA rrison 7-7851. . .	John Bock
Wabash	Polk & Clark Streets.	WA bash 2-7420. . . .	E. F. Keefe

CHANGES IN SERVICE

New

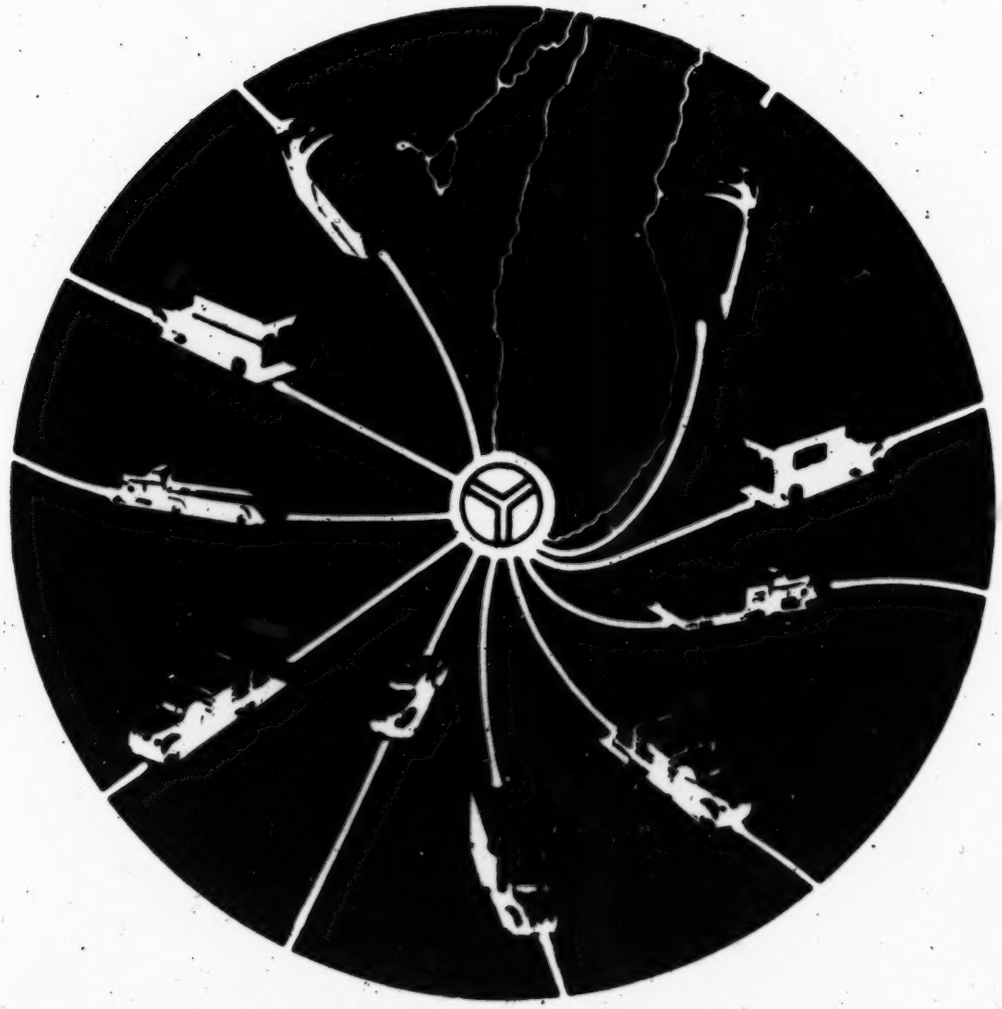
Destination	Via	Schedule	Effective Date
Erie, Pennsylvania	NYC	3	1/3/52

Discontinued

Destination	Via	Date Car Was Eliminated	Package Car in Which Freight Now Loads
Charles City, Iowa	IC	1/31/52	Waterloo, Iowa
Cincinnati, Ohio (Sou)	B/4	1/31/52	See other routes herein
Fulton, Kentucky	IC	1/31/52	Cairo, Illinois
Johnston City, Illinois	C&EI	12/28/51	Mt. Vernon, Illinois
Kansas City, Missouri	IC-MP	1/31/52	See other routes herein
Lincoln, Illinois	IC	1/31/52	Clinton, Illinois
Marion, Indiana	PRR	12/31/51	Logansport, Indiana
Memphis, Tennessee (SLSF)	IC	1/31/52	See other routes herein
Montgomery, Alabama	IC-CofGA	1/31/52	See other routes herein
Peoria, Illinois	IC	1/31/52	See other routes herein
Springfield, Ohio	B/4	1/31/52	Indianapolis, Indiana
Vicksburg, Mississippi	IC	1/31/52	Jackson, Mississippi
Youngstown, Ohio	Erie	1/31/52	See other routes herein

[fol. 2460] EXHIBIT No. 2

"WAY-TO-SHIP" FROM CHICAGO



THE CHICAGO ASSOCIATION OF COMMERCE AND INDUSTRY

(Fol. 2461 – p. 1819)

Abingdon:
Burlington
Hayes
Adair:
Burlington
Hayes
Addieville:
Be-Mac ‡
Hayes
Nighthawk(T)
Yellow Tran.
Addison:
Elgin
Landon
North Shore
Akin:
Be-Mac ‡
Albers:
Nighthawk(T)
Albion:
Be-Mac ‡
Hayes
Plaza(T)
Aldridge:
Be-Mac ‡
Plaza(T)
Aledo:
Burlington
Alexander:
Decatur
Hayes
Peoria(T)
Alexis:
Burlington
Hayes
Alexis Jct.:
Burlington
Algonquin:
Elgin
Landon
Liberty
Alhambra:
Hayes
Allen:
Hayes
Allendale:
Be-Mac(T)
Hayes
Plaza(T)
Allenville:
Decatur
Scherer
Allerton:
Hayes
Yellow Tran.
Alma:
Be-Mac(T)
Hayes
Yellow Tran.
Alorton:
Be-Mac(T)
Alpha:
Burlington
Alpine:
Landon
Alsip:
Landon
Meyers
North Shore
Alta:
Rock Island
Altamont:
Hayes
Viking
Yellow Tran.
ALTON:
Be-Mac
Burlington
Con. Fwd.
Decatur
(Cont. next column)

ALTON Cont.:
Hayes
Interstate Dis.
Mound City
Nighthawk(T)
Peoria(T)
Plaza
Scherer
Transamerican
Yellow Tran.
Altona:
Burlington
Alto Pass:
Be-Mac ‡
Plaza(T)
Alvin:
Hayes
Amboy:
Tobler
America:
Hayes
Viking
Andres:
Hayes
Andrew:
Hayes
Anna:
Be-Mac(T)
Hayes
Plaza(T)
Viking◊
Annawan:
Burlington‡
Rock Island
Antioch:
Yellow Tran.
Aptakisic:
Landon
Arcola:
Decatur
Hayes
Scherer
Yellow Tran.
Arden Shore:
Landon
Argenta:
Decatur
Hayes
North Shore
Argo (Cook Co.):
Active Motor
Catania Bros.
Hayes
Keeshin
Krema
Landon
Lightning
Meyers
North Shore
Pennoyer
Scherer
Arlington:
Tobler
Arlington Heights:
Krema
Landon
Meyers
North Shore
Armstrong:
Hayes
Arnold:
Decatur
Hayes
Arthur:
Hayes
Scherer
Ashburn:
Hayes
Yellow Tran.
Ashland:
Decatur
Hayes
Ashley:
Be-Mac ‡
Hayes
Yellow Tran.
Ashmore:
Hayes
Yellow Tran.
Ashton:
North Shore
Assumption:
Decatur
Hayes
Peoria(T)
Astoria:
Burlington
Decatur
Hayes ‡
Orscheln
Athens:
Decatur
Hayes
Peoria(T)
Atkinson:
Burlington‡
Rock Island
Atlanta:
Hayes
Atlas (Pike Co.):
Plaza(T)
Atwood:
Decatur
Hayes
Auburn:
Decatur
Hayes
Peoria(T)
Augusta:
Burlington
Hayes
AURORA:
Elgin◊
Keeshin◊
Landon◊
Meyers
North Shore
Scherer◊
Austin:
Meyers
Ava:
Be-Mac(T)
Hayes(T)
Plaza(T)
Avena:
Decatur
Viking
Aviston:
Be-Mac(T)
Hayes
Nighthawk(T)
Yellow Tran.
Avon:
Burlington
Hayes
Baker:
Scherer
Tobler
Balcom:
Hayes
Baldwin
(Randolph Co.):
Be-Mac(T)
Plaza(T)
Banner:
Burlington
Hayes
Bannockburn:
Landon

Barrington:
Elgin
Landon
Meyers
North Shore
Barry:
Decatur
Hayes
Orscheln
Plaza ‡
Bartelso:
Nighthawk(T)
Bartlett:
Elgin
Landon
North Shore
Bartonville:
Burlington
Decatur
Hall
Hayes
Keeshin
Orscheln
Peoria
Scherer
Tobler
Batavia:
Elgin
Keeshin
Landon
Meyers
North Shore
Scherer
Bates:
Decatur
Hayes
Bath:
Decatur
Hayes(T)
Beardstown:
Decatur
Hayes
Beaucoup:
Be-Mac(T)
Hayes
Beckemeyer:
Be-Mac(T)
Hayes
Nighthawk(T)
Bedford Park:
Keeshin
Beecher:
Hayes
Beecher City:
Hayes
Yellow Tran.
Belgium:
Hayes
Belknap:
Be-Mac(T)
Belle Rive:
Be-Mac ‡
BELLEVILLE:
Be-Mac ‡
Con. Fwd.(R)
Hayes
Interstate Dis.
Nighthawk(T)
Peoria(T)
Plaza(T)
Transamerican
Viking
Yellow Tran.
Bellflower:
Hayes
Bellmont:
Be-Mac(T)
Hayes
Bellwood:
Active Motor
Catania Bros.
Elgin
(Cont. next column)

Hayes
Keeshin
Krema
LaGrou Motor
Landon
Lightning
Meyers
North Shore
Pennoyer
Belmont
(Du Page Co.):
Landon
Belmont Heights:
Meyers
Belvidere:
Keeshin
Landon
Liberty◊
North Shore
Bement:
Decatur
Hayes
Benld:
Be-Mac ‡
Decatur
Hayes
Bensenville:
Elgin
Krema
Landon
Meyers
North Shore
Benson:
Scherer
Tobler
Bentley:
Hayes(T)
Benton:
Be-Mac(T)
Hayes◊
Plaza(T)
Berkeley:
Elgin
Landon
Lightning
Meyers
North Shore
Berlin:
Hayes(T)
Bernice:
Welsh Bros.
Berry:
Hayes
BERWYN:
Active Motor
Catania Bros.
Elgin
Hayes
Keeshin
Krema
LaGrou Motor
Landon
Lightning
Mart Motor
Meyers
North Shore
Pennoyer
Scherer
Bethalto:
Be-Mac(T)
Hayes
Bethany:
Decatur
Hayes
Scherer
Yellow Tran.
Beulah Heights:
Viking
Beverly Hills:
Krema
Mart Motor
Meyers

Biggsville:
Burlington
Birds:
Hayes
Bishop Hill:
Rock Island
Bismarck
(Vermillion Co.):
Hayes
Blair
(Randolph Co.):
Be-Mac ‡
Blairsville
(Williamson Co.):
Viking
Blandinsville:
Burlington
Hayes ‡
Blodgett:
Krema
Bloomingdale:
Elgin
Landon
North Shore
BLOOMINGTON:
Decatur◊
Hall◊
Hayes
Mound City◊
North Shore
Peoria◊(R)
Scherer◊
Yellow Tran.
Blue Island:
Active Motor
Catania Bros.
Hayes
Keeshin
Krema
LaGrou Motor
Landon
Lightning
Meyers
Pennoyer
Welsh Bros.
Blue Mound:
Decatur
Hayes
Bluff:
Hayes
Bluff City
(Fayette Co.):
Hayes
Viking
Bluffs:
Hayes
Plaza(T)
Bluff Springs:
Decatur
Hayes
Bluford:
Hayes
Blytom:
Hayes
Boles:
Hayes
Bonfield:
Hayes
Bonnie:
Be-Mac(T)
Hayes
Boody:
Decatur
Hayes
Bertom:
Hayes
Boskydell:
Plaza(T)
Boulder:
Be-Mac(T)

Bourbonnais:
Hayes
Bowen:
Burlington
Hayes
Boyleston:
Be-Mac ‡
Hayes
Braceville:
Hayes
Bradford:
Burlington‡
Peoria
Bradfordton:
Decatur
Hayes
Bradley:
Hall
Hayes
Braidwood:
Hayes
Breckenridge
(Sangamon Co.):
Hayes
Breese:
Be-Mac(T)
Hayes
Nighthawk(T)
Yellow Tran.
Bremen:
Be-Mac ‡
Plaza(T)
Brereton:
Burlington
Hayes
Bridgeport
(Lawrence Co.):
Hayes
Plaza(T)
Yellow Tran.
Brighton
(Jersey Co.):
Be-Mac ‡
Hayes
Brimfield:
Burlington
Brisbane:
Landon
Bristol:
Scherer
Broadlands:
Hayes
Broadview
Active Motor
Catania Bros.
Elgin
Hayes
Krema
Landon
Lightning
Meyers
North Shore
Broadwell:
Decatur
Hayes
Brocton:
Hayes
Brookfield:
Active Motor
Catania Bros.
Elgin
Hayes
Krema
Landon
Lightning
Meyers
North Shore
Scherer
Brooklyn
(Madison Co.):
Scherer

Trucking service shown herein is Direct via Carrier shown, except as noted. See pages 6 and 7 for full name, address and telephone number of Carriers.
◊Terminal.
‡Intra-State Service Only.
(T)Service involves transfer to a connecting carrier en route.
(R)Refrigerator service also available.

ILLINOIS—Continued (Brooklyn to Cobden)

Brooklyn
(St. Clair Co.)
Be-Mac
Burlington
Decatur
Hayes
Keeshin
Mound City
Peoria
Plaza®
[illegible]

Brookport:
Be-Mac
Hayes
Viking

Broughton:
Be-Mac

Browns:
Be-Mac
Hayes

Brownstown:
Hayes
Viking
Yellow Tran.

Brownsville:
Be-Mac

Bryant:
Burlington
Hayes

Buckley:
Hayes

Buckner:
Be-Mac®
Hayes

Buda:
Burlington‡

Buffalo:
Decatur
Hayes

Buffalo Grove:
Landon

Buffalo Hart:
Hayes

Bulpitt:
Hayes

Buncombe:
Be-Mac®
Hayes

Bunker Hill:
Hayes

Bureau:
Rock Island
Scherer
Tobler

Burksville:
Be-Mac

Burlington:
Elgin

Burnham:
Landon
Meyers
North Shore

Burnside:
[illegible]
Meyers

Burnt Prairie:
Be-Mac

Bush:
Be-Mac
Hayes
Viking

Bush-Hurst:
Hayes

Bushnell:
Burlington
Hayes

Butler
(Montgomery Co.):
Hayes
Yellow Tran.

Byron:
North Shore

Cache:
Be-Mac

Cahokia:
Be-Mac®
Con. Fwd.

Cairo:
Be-Mac®
Hayes
Plaza®
Viking

Caledonia:
Liberty

Calumet City:
Active Motor
Keeshin
Landon
Lightning
Meyers
North Shore
Pennoyer
Scherer
Welsh Bros.

Calumet Park:
Meyers
Scherer

Calvin:
Be-Mac®
Hayes

Camargo:
Hayes
Yellow Tran.

Cambria:
Be-Mac®
Hayes
Viking

Cambridge:
Burlington‡
Rock Island

Campbell Hill:
Be-Mac
Hayes
Plaza®

Camp Ellis:
Burlington
Hayes

Camp Grant:
Keeshin
Landon
Liberty

Camp Point:
Burlington
Hayes
Orscheln

Canton:
Burlington®
Decatur
Hayes
Keeshin
Peoria®
Scherer®

Cantrall:
Decatur
Hayes
Peoria®

Capron:
Liberty

Carbon Cliff:
Burlington‡
Interstate Dis.
Keeshin
Rock Island

Carbondale:
Be-Mac®
Hayes
Plaza®
Viking◊

Carlinville:
Be-Mac
Decatur
Hayes
Peoria®

Carlock:
Hayes
Yellow Tran.

Carlyle:
Be-Mac®
Hayes
Yellow Tran.

Carmi:
Be-Mac
Hayes
Plaza®
Yellow Tran.

Carpenter:
Be-Mac

Carpentersville:
Active Motor
Elgin
Landon
Liberty

Carrier Mills:
Be-Mac®
Hayes

Carrollton:
Be-Mac
Hayes
Plaza®

Carterville:
Be-Mac®
Hayes
Viking

Carthage:
Burlington◊
Hayes

Cary:
Elgin
Landon
North Shore

Casey:
Decatur
Hayes
Yellow Tran.◊

Caseyville:
Be-Mac®
Hayes
Nighthawk®

Casner:
Hayes

Cass:
Hayes

Catlin:
Hayes

Cave-In-Rock:
Hayes

Cayuga:
Hayes

Casenovia:
Scherer
Tobler

Cedar Point:
Scherer
Tobler

CentervilleStation:
Hayes

Central City
(Marion Co.):
Be-Mac®
Hayes
Plaza®
Viking
Yellow Tran.

Centralia:
Be-Mac®
Hayes◊
Plaza®
Viking◊
Yellow Tran.

Cerro Gordo:
Decatur
Hayes

CHAMPAIGN:
Decatur◊
Hall◊
Hayes
North Shore
Scherer®
Yellow Tran.

Chandlerville:
Decatur

Chanute Field:
Hayes

Chapin:
Decatur
Hayes®
Plaza®

Charleston:
Decatur
Hayes
Yellow Tran.◊

Chatham
(Sangamon Co.):
Decatur
Hayes
Peoria®

Chatsworth:
Hayes

Chebanse:
Hayes
Yellow Tran.

Chemung:
Liberty

Chenoa:
Hayes

Cherry:
Scherer
Tobler

Cherry Valley:
Landon
Liberty

Chester:
Be-Mac®
Hayes®
Nighthawk®
Plaza®

Chesterfield
(Macoupin Co.):
Be-Mac
Hayes

Chesterville:
Scherer

CHICAGO:
(For Intra-City Truck Service, see Misc. and Local Motor Truck Service, Page 8)

Chicago Golf:
Landon

CHICAGO HEIGHTS:
Hayes
Keeshin
Krema
Landon◊
Meyers
North Shore◊
Welsh Bros.

Chicago Ridge:
Active Motor
Landon
Lightning
Meyers
North Shore

Chillicothe:
Peoria
Rock Island
Scherer
Tobler

Choat:
Be-Mac
Hayes

Chrisman:
Hall
Hayes
Yellow Tran.

Christopher:
Be-Mac®
Hayes

CICERO:
Active Motor
Catania Bros.
Elgin
Hayes
Keeshin
Krema
LaGrou Motor
Landon
Lightning
Mart Motor
Meyers
North Shore
Pennoyer
Scherer

Cisco:
Hayes
North Shore

Clane:
Be-Mac®
Hayes
Plaza®

Cissna Junction:
Hayes®

Cissna Park:
Hayes®

Claremont:
Hayes

Clarendon Hills:
Landon
Meyers
North Shore

Clark Center:
Decatur
Hayes

Clarksdale:
Hayes

Clay City:
Be-Mac
Hayes
Yellow Tran.◊

Clayton:
Hayes
Orscheln

Clearing:
Active Motor
Catania Bros.
Hayes
Keeshin
Krema
LaGrou Motor
Landon◊
Lightning
Meyers
North Shore
Pennoyer

Clifton:
Hayes
Yellow Tran.

Clinton:
Decatur
Hayes
North Shore
Scherer◊
Yellow Tran.

Cloverdale
(Du Page Co.):
Landon
North Shore

Cloverdale
(Tazewell Co.):
Hayes
Scherer

Coal City:
Scherer

Coalton:
Hayes

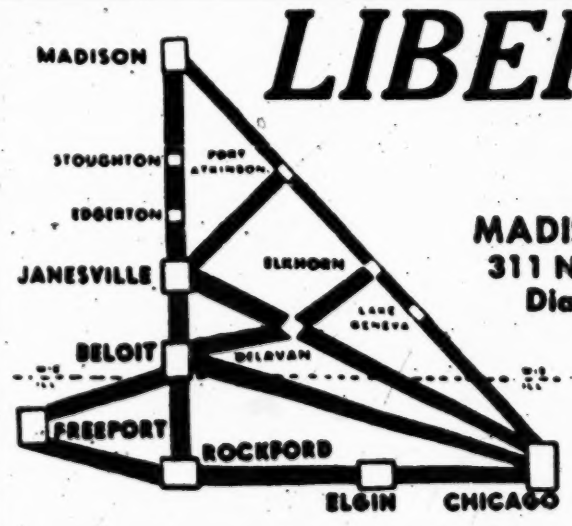
Coal Valley:
Burlington

Coatsburg:
Burlington
Hayes
Orscheln

Cobden:
Be-Mac®
Hayes
Plaza®
Viking

LIBERTY TRUCKING CO.

FAST — COURTEOUS — DEPENDABLE



BRANCH OFFICES & TERMINALS

MADISON, WIS.
311 No. Third St.
Dial 4-2455

JANESVILLE, WIS.
950 Inaustrial Ave.
Dial 6668

BELOIT, WIS.
105 Park Ave.
Tel. College 2600

FREEPORT, ILL.
103 S. Howard St.
Tel. Main 3020

ROCKFORD, ILL.
1311 Preston St.
Dial 3-3456

ELGIN, ILL.
414 McBride St.
Tel. Elgin 2224

GENERAL OFFICE AND TERMINAL
1401 W. Fulton St. - CHICAGO - HAymarket 1-2100

Trucking service shown herein is Direct via Carrier shown, except as noted.
See pages 5 and 7 for full name, address and telephone number of Carriers.
◊Terminal. ‡Intra-State Service Only.
®Service involves transfer to a connecting carrier en route.
®Refrigerator service also available.

(F.L. 2463 - p. 182)

Colchester:
Burlington
Hayes
Coldbrook:
Burlington
Coles:
Decatur
Scherer
Collinsville:
Be-Mac(T)
Con. Fwd.(T)
Decatur
Hayes
Mound City
Nighthawk(T)
Viking
Yellow Tran.
Colmar:
Burlington
Hayes
Colona:
Rock Island
Colp:
Be-Mac(T)
Hayes
Columbia
(Monroe Co.):
Be-Mac(T)
Nighthawk(T)
Plaza(T)
Columbia
(St. Clair Co.):
Be-Mac(T)
Hayes(T)
Comer:
Be-Mac(T)
Congerville:
Hayes
Yellow Tran.
Congress Park:
Active Motor
Landon
Lightning
Meyers
North Shore
Cora:
Plaza(T)
Cornell:
Hayes
Cornland:
Hayes
Cortland:
Landon
Cottonwood:
Be-Mac(T)
Coulterville:
Hayes
Nighthawk(T)
Plaza(T)
Cowden:
Hayes
Cowling:
Be-Mac(T)
Hayes
Crab Orchard:
Be-Mac(T)
Viking
Crain:
Plaza(T)
Crainville:
Be-Mac(T)
Hayes
Viking
Cramer:
Burlington
Hayes
Creal Springs:
Be-Mac(T)
Hayes
Crescent City:
Hayes
Creston:
Keeshin
Crestwood:
North Shore
Crete:
Hayes
Creve Coeur:
Hayes
Keeshin
Scherer
Crossville:
Be-Mac(T)
Hayes
Plaza(T)
Yellow Tran.
Cruger:
Hayes
Scherer
Tobler
Crystal Lake:
Elgin
Landon
North Shore
Cuba
(Fulton Co.):
Burlington
Hayes
Curran:
Decatur
Hayes
Peoria(T)
Cutler:
Be-Mac(T)
Plaza(T)
Cypress:
Be-Mac(T)
Hayes
Dahinda:
Burlington‡
Dahlgren:
Be-Mac(T)
Yellow Tran.
Dallasania:
Viking
Dallas City:
Burlington
Hayes
Dalton City:
Decatur
Hayes
Scherer
Yellow Tran.
Dalzell:
Scherer
Tobler
Dana:
Scherer
Danforth:
Hayes
Yellow Tran.
DANVILLE:
Decatur◆
Hall◆◆
Hayes◆
North Shore
Yellow Tran.
Dawson:
Decatur
Hayes
North Shore
Dayton:
Scherer
DECATUR:
Decatur◆(R)
Hayes
Mound City◆
North Shore◆
Peoria◆(R)
Scherer◆
Yellow Tran.◆
Deer Creek:
Hayes(T)
Deerfield:
Krema
Landon
Meyers
North Shore
De Kalb:
Keeshin◆
Landon
North Shore
Delafield:
Be-Mac(T)
Deland:
Hayes
Delavan:
Hayes
Delhi:
Be-Mac(T)
Delrey:
Hayes
Delta:
Be-Mac(T)
Depue:
Rock Island
Scherer
Tobler
De Soto:
Be-Mac(T)
Hayes
Viking
Des Plaines:
Active Motor
Catania Bros.
Keeshin
Krema
Landon
Lightning
Meyers
North Shore
Pennoyer
Scherer
Detroit:
Decatur
Hayes
Plaza(T)
Dexter:
Hayes
Viking
Dieterich:
Hayes
Yellow Tran.
Divernon:
Decatur
Hayes
Dix:
Be-Mac(T)
Hayes
Dixmoor:
Active Motor
Hayes
Landon
Lightning
Meyers
North Shore
Dixon:
Keeshin
North Shore
Tobler◆
Dixon Springs:
Be-Mac(T)
Hayes(T)
Dolton:
Active Motor
Decatur
Hayes
Krema
Landon
Lightning
Meyers
North Shore
Pennoyer
Welsh Bros.
Dongola:
Be-Mac(T)
Hayes
Viking
Donnellson:
Hayes(T)
Dorans:
Hayes
Scherer
Dorchester:
Hayes
Douglas:
Burlington
Dover:
Tobler
Dow:
Be-Mac(T)
Dowell:
Be-Mac(T)
Hayes
Downers Grove:
Krema
Landon
Meyers
North Shore
Scherer
Downey:
Krema
Landon
Dubois:
Be-Mac(T)
Duncan:
Burlington‡
Duncans Mills:
Burlington
Hayes
Dundee:
Elgin
Landon
Liberty
North Shore
Dunfermline:
Burlington
Hayes
Dunlap:
Burlington
Rock Island
Dunn
(Moultrie Co.):
Hayes
Scherer
Dupo:
Be-Mac(T)
Hayes(T)
Nighthawk(T)
Plaza(T)
Du Quoin:
Be-Mac(T)
Hayes
Plaza(T)
Durham:
Burlington
Hayes(T)
Dwight:
Hayes
North Shore
Eagarville:
Be-Mac(T)
Earlville:
Scherer
Tobler
East Alton:
Be-Mac
Con. Fwd.
Decatur
Hayes
Interstate Dis.
Mound City
Nighthawk(T)
Plaza
Scherer
Transamerican
Yellow Tran.
East Batavia:
Landon
East Carondelet:
Be-Mac(T)
Plaza(T)
East Dubuque:
Chi-Dubuque(R)
H. & W. Motor
East Hazelcrest:
Hayes
East Joliet:
Landon
East Moline:
Burlington(R)
H. & W. Motor
Hayes
Interstate Dis.
Keeshin
Merchants
Peoria
Pioneer(R)
Rock Island
Easton:
Hayes
East Peoria:
Burlington
Decatur
Hall
Hayes
Keeshin
North Shore
Peoria(R)
Scherer
Tobler
Transamerican
Yellow Tran.
East Rockford:
Landon
EAST ST. LOUIS:
Be-Mac
Best
Burlington
Con. Fwd.
Decatur◆
Hayes
Interstate Dis.(R)
Keeshin
Mound City
Nighthawk(T)
Peoria
Plaza(R)
Scherer
Transamerican
Viking
Yellow Tran.◆
East Wenona:
Scherer
Eddyville:
Be-Mac(T)
Edelstein:
Peoria
Eden (Peoria Co.):
Hayes
Eden
(Randolph Co.):
Be-Mac(T)
Edgebrook:
Meyers
Edgemont:
Be-Mac(T)
Hayes
Edgewood:
Hayes
Yellow Tran.
Edinburg:
Hayes
Peoria(T)
Edison Park:
Krema
Landon
Mart Motor
Meyers
Pennoyer
Edwards:
Burlington‡
Edwardsville:
Be-Mac(T)
Decatur
Hayes
Interstate Dis.
Mound City
Nighthawk(T)
Peoria(T)
Plaza(T)
Yellow Tran.◆
Effingham:
Decatur
Hayes
Viking◆
Yellow Tran.◆
Eichorn:
Hayes
Elburn:
Landon
Elco:
Be-Mac(T)
Hayes
Viking
Eldorado:
Be-Mac(T)
Hayes
Viking
Eldred:
Be-Mac(T)
ELGIN:
Elgin◆◆
Landon
Liberty◆
Meyers
North Shore
Scherer
Elgin Junction:
Landon
Elizabeth:
Chi-Dubuque
H. & W. Motor
Elizabethtown:
Be-Mac(T)
Hayes
Elk Grove:
Landon
Elkhart:
Decatur
Hayes
Mound City
Elkville:
Be-Mac(T)
Hayes
Elliott:
Hayes
Ellis Grove:
Be-Mac(T)
Plaza(T)
Elmhurst:
Elgin
Krema
Landon
Meyers
North Shore
Elmira:
Burlington‡
Elmwood:
Burlington
Elmwood Park:
Active Motor
Catania Bros.
Elgin
Hayes
LaGrou Motor
Landon
Lightning
Mart Motor
Meyers
(Cont. next column)
North Harlem
North Shore
Pennoyer
Scherer
El Paso:
Hayes
Scherer
Elvaston:
Burlington
Hayes
Elwin:
Decatur
Hayes
Elwood:
Hayes
Keeshin
Emery:
Decatur
Hayes
Emington:
Hayes
Empire:
Hayes
Energy:
Be-Mac(T)
Hayes
Viking
Enfield:
Be-Mac(T)
Hayes
Enterprise:
Be-Mac(T)
Eola:
Landon
Epperson:
Hayes
Equality:
Be-Mac(T)
Hayes
Erie:
Keeshin
Etherton:
Plaza(T)
Eureka:
Hayes
Peoria
Scherer
Tobler
EVANSTON:
Active Motor
Catania Bros.
Hayes
Keeshin
Krema
LaGrou Motor
Landon
Lightning
Mart Motor
Meyers
North Harlem
North Shore
Pennoyer
Scherer
Webber
Evansville:
Be-Mac(T)
Hayes(T)
Plaza(T)
Evergreen Park:
Active Motor
Landon
Lightning
Meyers
North Shore
Ewing:
Be-Mac(T)
Fairbury:
Hayes
Fairfield:
Be-Mac(T)
Hayes
Plaza(T)

Trucking service shown herein is Direct via Carrier shown, except as noted. (T)Service involves transfer to a connecting carrier en route.
See pages 5 and 7 for full name, address and telephone number of Carriers (R)Refrigerator service also available.
◆Terminal. ◆◆Home Office. ‡Intra-State Service Only.

O'Fallon:
Be-Mac Ⓣ
Hayes
Nighthawk Ⓣ
Plaza Ⓣ

Ogden:
Hayes
Yellow Tran.

Oglesby:
Decatur
Hayes
Scherer
Tobler

Ohio:
Tobler

Ohlman:
Hayes
Yellow Tran.

Okawville:
Be-Mac Ⓣ
Hayes
Nighthawk Ⓣ
Yellow Tran.

Old Duquoin:
Hayes

Olive Branch:
Be-Mac Ⓣ

Olivet:
Hall
Hayes
Yellow Tran.

Olmsted:
Be-Mac Ⓣ
Hayes

Olney:
Be-Mac Ⓣ
Hayes
Plaza Ⓣ
Yellow Tran. ♦

Olympia Fields:
Landon
Meyers

Omaha:
Be-Mac Ⓣ
Hayes

Onarga:
Hayes
Yellow Tran.

Oneida:
Burlington

Ontarioville:
Elgin
Landon
North Shore

Opdyke:
Be-Mac Ⓣ

Opheim:
Burlington

Oquawka:
Burlington‡

Oraville:
Be-Mac Ⓣ

Orchard Mines:
Burlington
Hayes
Peoria

Orchard Place:
Active Motor
Krema
Landon
Lightning
Meyers

Ordill:
Be-Mac Ⓣ
Hayes
Viking

Oreana:
Decatur
Hayes
North Shore

Oregon:
Keeshin

Orient:
Be-Mac Ⓣ
Hayes
Viking

Orion:
Burlington
Rock Island

Orland Park:
Landon
Meyers

Orleans:
Decatur
Hayes

Osco:
Rock Island

Ospur:
Hayes

Oswego:
Keeshin
Scherer

Ottawa:
Decatur♦
Hayes
Keeshin
North Shore
Rock Island♦
Scherer♦♦
Tobler

Owaneco:
Hayes

Owens Siding:
Keeshin
Scherer

Ozark:
Be-Mac Ⓣ
Hayes

Palatine:
Landon
North Shore

Palestine:
Hayes

Palmer:
Decatur
Hayes

Palmyra:
Hayes

Paloma:
Burlington
Hayes
Orscheln

Palos Park:
Landon
Meyers
North Shore

Pana:
Decatur
Hayes
Peoria Ⓣ
Scherer Ⓣ
Yellow Tran. ♦

Pankeyville:
Hayes

Panola:
Hayes

Papineau:
Hayes

Paris:
Decatur
Hall♦
Hayes
Yellow Tran.♦

Park Forest:
Welsh Bros.

Park Ridge:
Active Motor
Catania Bros.
Krema
Landon
Lightning
Meyers
North Harlem
North Shore
Pennoyer

Parks Airport:
Be-Mac
Viking

Parnell:
Hayes

Parrish:
Be-Mac Ⓣ
Hayes

Patoka:
Be-Mac Ⓣ
Hayes

Patton:
Hayes

Paulton:
Be-Mac Ⓣ

Pawnee:
Hayes

Paxton:
Hall
Hayes
Yellow Tran.

Payson:
Decatur
Hayes
Plaza Ⓣ

Pearl:
Plaza Ⓣ

Pecatonica:
Liberty

Pekin:
Burlington‡
Decatur
Hall
Hayes
Keeshin
North Shore
Orscheln
Peoria
Scherer
Transamerican

PEORIA:
Burlington♦
Decatur♦Ⓡ
Hall♦
Hayes♦
Keeshin♦
North Shore♦
Orscheln♦
Peoria♦♦Ⓡ
Rock Island♦
Scherer♦
Tobler♦
Transamerican♦
Yellow Tran.

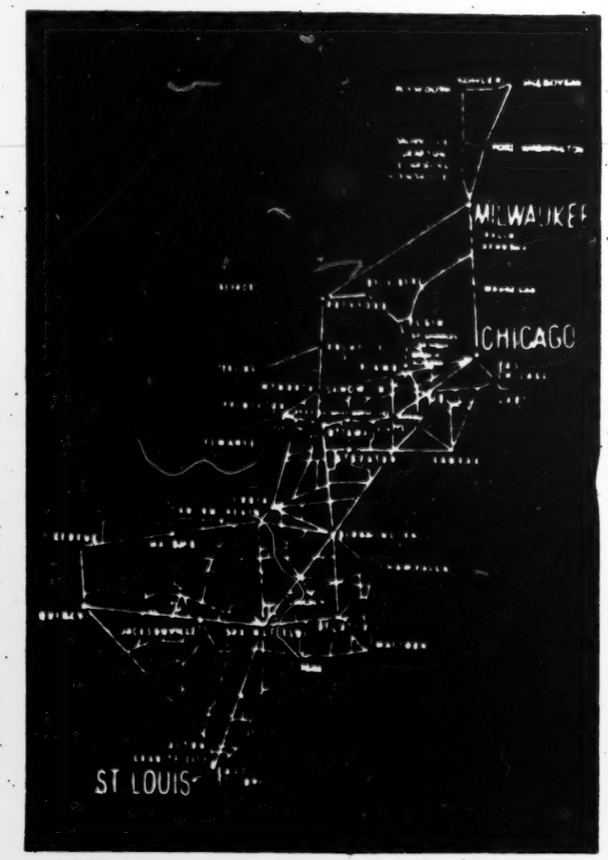
Peoria Heights:
Burlington
Hall
Hayes
Keeshin
Peoria
Scherer

SCHERER FREIGHT LINES

MAIN OFFICE: OTTAWA, ILL. PHONE 753

CHICAGO OFFICE
1833 S. Canal St.
Phone MOnroe 6-7013

BRANCHES	PHONE
Aurora	24327
Bloomington	7633
Decatur	3-3449
Kankakee	2-1412
La Salle	23
Milwaukee	DAly 8-2905
Peoria	35177
Rockford	3-7617
Springfield	7538
St. Louis	CHestnut 2592
Streator	35462



MEMBERS

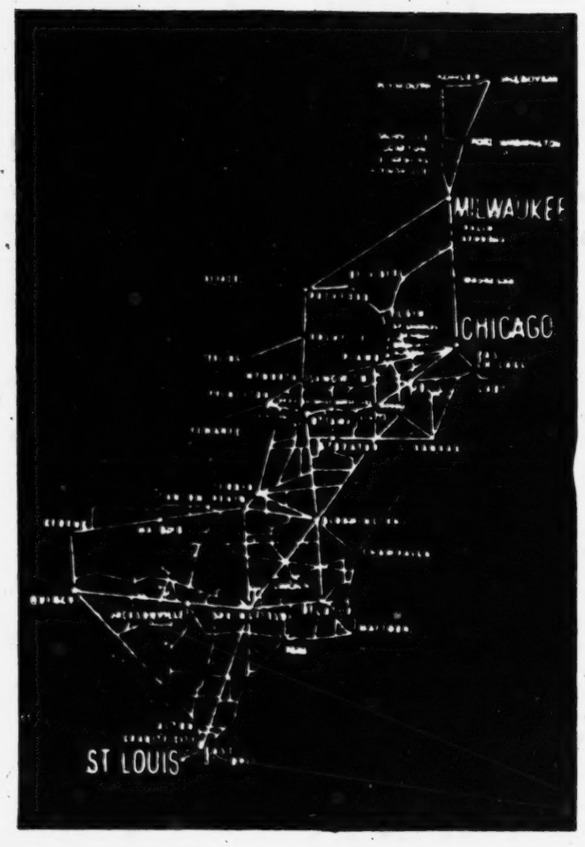
Allied Van Lines, Inc.
American Trucking Assns., Inc.
Cent. and So. Motor Freight Tariff Bureau
Central Motor Freight Assn.
Central States Motor Freight Bureau
Eastern Central Motor Carriers Assn.
Middle West Motor Freight Bureau
Motor Carrier Conference of Illinois
National Furniture Warehousemen's Assn.
Rocky Mountain Tariff Bureau, Inc.

SHIP VIA SCHERER — Through the Heart of Illinois

MAIN OFFICE: OTTAWA, ILL. PHONE 753

CHICAGO OFFICE
1833 S. Canal St.
Phone MOnroe 6-7013

BRANCHES	PHONE
Aurora	24327
Bloomington	7633
Decatur	3-3449
Kankakee	2-1412
La Salle	23
Milwaukee	DAly 8-2905
Peoria	35177
Rockford	3-7617
Springfield	7538
St. Louis	CHestnut 2592
Streator	35462



MEMBERS

Allied Van Lines, Inc.
American Trucking Assns., Inc.
Cent. and So. Motor Freight Tariff Bureau
Central Motor Freight Assn.
Central States Motor Freight Bureau
Eastern Central Motor Carriers Assn.
Middle West Motor Freight Bureau
Motor Carrier Conference of Illinois
National Furniture Warehousemen's Assn.
Rocky Mountain Tariff Bureau, Inc.

SHIP VIA SCHERER — Through the Heart of Illinois

Ordill:
Be-Mac Ⓣ
Hayes
Viking
Oreana:
Decatur
Hayes
North Shore
Oregon:
Keeshin
Orient:
Be-Mac Ⓣ
Hayes
Viking
Orion:
Burlington
Rock Island
Orland Park:
Landon
Meyers
Orleans:
Decatur
Hayes
Osco:
Rock Island
Ospur:
Hayes
Oswego:
Keeshin
Scherer
Ottawa:
Decatur♦
Hayes
Keeshin
North Shore
Rock Island♦
Scherer♦♦
Tobler
[illegible]
Orscheln
Palos Park:
Landon
Meyers
North Shore
Pana:
Decatur
Hayes
Peoria Ⓣ
Scherer Ⓣ
Yellow Tran.♦
Pankeyville:
Hayes
Panola:
Hayes
Papineau:
Hayes
Paris:
Decatur
Hall♦
Hayes
Yellow Tran.♦
Park Forest:
Welsh Bros.
Park Ridge:
Active Motor
Catania Bros.
Krema
Landon
Lightning
Meyers
North Harlem
North Shore
Pennoyer
Parks Airport:
Be-Mac
Viking
Decatur
Hayes
Plaza Ⓣ
Pearl:
Plaza Ⓣ
Pecatonica:
Liberty
Pekin:
Burlington‡
Decatur
Hall
Hayes
Keeshin
North Shore
Orscheln
Peoria
Scherer
Transamerican
PEORIA:
Burlington♦
Decatur♦Ⓡ
Hall♦
Hayes♦
Keeshin♦
North Shore♦
Orscheln♦
Peoria♦♦Ⓡ
Rock Island♦
Scherer♦
Tobler♦
Transamerican♦
Yellow Tran.
Peoria Heights:
Burlington
Hall
Hayes
Keeshin
Peoria
Scherer

C. O. D. remittances outstanding more than ten days and loss and damage claims outstanding more than sixty days against carriers shown herein, should be reported promptly in a written statement to the Transportation Department of the Chicago Association of Commerce and Industry, One North La Salle Street, Chicago 2.

Trucking service shown herein is Direct via Carrier shown, except as noted. Ⓣ Service involves transfer to a connecting carrier en route.
See pages 5 and 7 for full name, address and telephone number of Carriers. Ⓡ Refrigerator service also available.
♦Terminal. ♦♦Home Office. ‡Intra-State Service Only.

(Fol. 2464- P.12

Fairland:
Hayes
Fairman:
Hayes
Fairmont City:
Be-Mac
Decatur
Hayes
Mound City
Nighthawk(T)
Plaza
Scherer
Transamerican
Fairmount:
Hayes
Yellow Tran.
Fairview (Fulton Co.):
Burlington
Farina:
Hayes
Yellow Tran.
Farmer City:
Hayes
Farmersville (Montgomery Co.):
Decatur
Hayes
Farmington (Fulton Co.):
Burlington
Hayes
Fayette:
Hayes
Fayetteville:
Nighthawk(T)
Federal:
Be-Mac
Hayes
Mound City
Transamerican
Feehanville:
Landon
Ferrin:
Hayes
Flatt:
Burlington
Hayes
Ficklin:
Decatur
Fidelity:
Be-Mac(T)
Fieldon:
Be-Mac(T)
Plaza(T)
Filson:
Hayes
Finney:
Plaza(T)
Fisher:
Hayes
Fithian:
Hayes
Yellow Tran.
Flanagan:
Peoria
Flat Rock:
Hayes
Yellow Tran.
Flora (Clay Co.):
Be-Mac(T)
Hayes
Plaza(T)
Yellow Tran.
Florence (Pike Co.):
Decatur
Hayes
Plaza(T)
Flossmoor:
Krema
Landon
Meyers
North Shore
Pennoyer
Forest Park:
Active Motor
Catania Bros.
Elgin
Hayes
Keeshin
Krema
LaGrou Motor
Landon
Lightning
Mart Motor
Meyers
North Shore
Pennoyer
Scherer
Forest View:
Active Motor
Hayes
Lightning
Formosa:
Hayes
Viking
Forrest:
Hayes
Forsyth:
Hayes
Ft. Sheridan:
Advance(R)
Krema
Landon
Meyers
North Shore
Olson, Fred
Webber
Fowler:
Burlington
Decatur
Hayes
Orscheln
Fox River Grove:
Elgin
Landon
Frankfort:
Hayes
Landon
Frankfort Heights:
Hayes
Franklin Park:
Active Motor
Catania Bros.
Elgin
Hayes
Krema
Landon
Lightning
Meyers
North Harlem
North Shore
Pennoyer
Scherer
Frederick:
Hayes
Freeburg:
Be-Mac(T)
Hayes
Nighthawk(T)
Plaza(T)
Freeman Spur:
Be-Mac(T)
Hayes
Viking
FREEPORT:
Be-Mac
Chi-Dubuque
Gateway
Keeshin
Liberty◊
North Shore
French Village:
Be-Mac(T)
Hayes
Fullerton:
Hayes
Fulton:
Hayes(T)
Keeshin
Fults:
Be-Mac(T)
Funkhouser:
Hayes
Viking
Future City:
Hayes
Galatia:
Be-Mac(T)
Hayes
Gale:
Be-Mac(T)
Galena:
Chi-Dubuque
H. & W. Motor◊
GALESBURG:
Burlington◊◊(R)
Galton:
Hayes
Galva:
Burlington
Rock Island
Garber:
Hayes
Garden Prairie:
Landon
Gardner:
Hayes
North Shore
Garrett:
Decatur
Gaskin City:
Hayes
Gays:
Decatur
Hayes
Geff:
Be-Mac(T)
Hayes
Plaza(T)
Geneseo:
Burlington‡
Rock Island
Geneva:
Elgin
Keeshin
Landon
Meyers
North Shore
Scherer
Geneva Junction:
Landon
Genoa:
Elgin
Landon
George Field:
Hayes
Georgetown:
Hall
Hayes
Yellow Tran.
Germantown (Woodford Co.):
Nighthawk(T)
Scherer
Gibson City:
Hayes
Gibsonia:
Hayes
Gilberts:
Elgin
Landon
Gilbirds:
Decatur
Hayes
Gilchrist:
Burlington‡
Gillespie:
Decatur
Hayes
Peoria(T)
Gilman:
Hayes
Yellow Tran.
Gilmer:
Landon
Gilson:
Burlington
Girard:
Decatur
Hayes
Peoria(T)
Gladstone:
Burlington‡
Glasford:
Hayes
Glenarm:
Hayes
Glen Carbon:
Be-Mac(T)
Hayes(T)
Nighthawk(T)
Plaza(T)
Glenoce:
Krema
Landon
Meyers
North Shore
Glendale:
Be-Mac(T)
Glen Ellyn:
Elgin
Landon
Meyers
North Shore
Glenridge:
Be-Mac(T)
Hayes
Glenview:
Krema
Landon
Meyers
North Shore
Glenwood:
Krema
Landon
Meyers
Welsh Bros.
Glenwood Park Camp:
Elgin
Glover:
Hayes
Godfrey:
Be-Mac
Hayes
Scherer
Godley:
Hayes
Goleonda:
Be-Mac(T)
Hayes
Golden:
Burlington‡
Hayes(T)
Goldengate:
Be-Mac(T)
Golf:
Active Motor
Landon
Lightning
Meyers
North Shore
Goodfield:
Hayes
Good Hope:
Burlington
Hayes
Goreville:
Be-Mac(T)
Hayes
Grafton:
Be-Mac(T)
Grand Chain:
Be-Mac(T)
Hayes
Grand Ridge:
Hayes
Scherer
Tobler
Grand Tower:
Be-Mac(T)
Plaza(T)
GRANITE CITY:
Be-Mac
Con. Fwd.
Decatur
Hayes
Interstate Dis.
Keeshin
Mound City
Nighthawk(T)
Peoria
Plaza(R)
Scherer
Transamerican
Viking
Yellow Tran.
Grant Park:
Hayes
Granville:
Scherer
Tobler
Grayville:
Be-Mac(T)
Hayes
Plaza(T)
Great Lakes Naval Training Station:
Advance(R)
Krema
Landon
Meyers
North Shore
Olson, Fred
Pennoyer
Webber
Greendale:
Be-Mac(T)
Yellow Tran.
Greenfield:
Hayes
Green River:
Rock Island
Greenup:
Decatur
Hayes
Yellow Tran.
Green Valley (Tazewell Co.):
Hayes
Greenview:
Decatur
Hayes
Peoria(T)
Greenville:
Be-Mac(T)
Hayes
Viking
Yellow Tran.
Greenwood Blvd.:
Landon
Gresham:
Rock Island
Gridley:
Hayes
Griggsville:
Hayes(T)
Plaza(T)
Grimsby:
Be-Mac(T)
Plaza(T)
Groveland:
Hayes
Gulfport:
Burlington
Gurnee:
Landon
Gurney:
Hayes
Guthrie:
Hayes
Hagaman:
Be-Mac(T)
Hayes
Hagarstown:
Be-Mac(T)
Viking
Yellow Tran.
Half Day:
Landon
Hallidayboro:
Be-Mac(T)
Hayes
Hamel:
Be-Mac(T)
Hayes
Mound City
Nighthawk(T)
Hamilton:
Burlington
Hayes
Orscheln
Hamlet:
Burlington
Hammond (Piatt Co.):
Hayes
Hampshire:
Elgin
Landon
Hanaford:
Hayes
Hanna City:
Burlington
Hayes
Hanover:
Chi-Dubuque
H. & W. Motor
Harco:
Be-Mac(T)
Hayes(T)
Hardin:
Be-Mac(T)
Plaza(T)
Harrisburg:
Be-Mac(T)
Hayes
Viking
Harrisonville:
Be-Mac(T)
Harristown:
Decatur
Hayes
North Shore
Hartford:
Be-Mac
Hayes
Mound City
Scherer
Hartland:
Elgin
Hartsburg:
Decatur
Hayes
Harvard:
Elgin
Liberty
Harvel:
Decatur
Hayes
Harvey:
Active Motor
Hayes
Keeshin
Krema
Landon
Lightning
Meyers
North Shore
Pennoyer
Scherer
Welsh Bros.
Havana:
Burlington
Decatur
Hayes
Hawthorne (Cook Co.):
Catania Bros.
Keeshin
Landon
Hazel Crest:
Active Motor
Krema
Landon
Lightning
Meyers
North Shore
Pennoyer
Hecker:
Be-Mac(T)
Plaza(T)
Hegewisch:
Active Motor
Catania Bros.
Hayes
Keeshin
Krema
Landon
Lightning
Meyers
North Shore
Pennoyer
Welsh Bros.
Heman:
Hayes
Henderson (Knox Co.):
Burlington
Henkel:
Tobler
Hennepin:
Scherer
Tobler
Henning:
Hayes
Henry:
Rock Island
Scherer
Tobler
Herod:
Be-Mac(T)
Hayes
Herrin:
Be-Mac(T)
Hayes
Plaza(T)
Viking

Trucking service shown herein is Direct via Carrier shown, except as noted. See pages 5 and 7 for full name, address and telephone number of Carriers.
◊Terminal. ◊◊Home Office. ‡Intra-State Service Only.
(T)Service involves transfer to a connecting carrier en route.
(R)Refrigerator service also available.

(FR. 2465 - P. 1223)

Herman:
Decatur
Hayes
Harvey City:
Hayes
Scherer
Hettick:
Hayes
Heyworth:
Decatur
Hayes
Yellow Tran.
Hidalgo:
Hayes
Higgins:
Hayes
Highland:
Be-Mac(T)
Hayes
Nighthawk(T)
Plaza(T)
Viking
Yellow Tran.
Highland Park:
Krema
Landon
Meyers
North Shore
Webber
Highwood:
Krema
Landon
Meyers
North Shore
Webber
Hillery:
Hayes
Hillsboro:
Be-Mac(T)
Decatur
Hayes
Scherer(T)
Yellow Tran.
Hillsdale:
Keeshin
Hillside:
Active Motor
Catania Bros.
Elgin
Hayes
Krema
Landon
Lightning
Meyers
North Shore
Hindsboro:
Hayes
Hines:
Active Motor
Landon
Lightning
Meyers
North Shore
Scherer
Hinsdale:
Active Motor
Krema
Landon
Lightning
Meyers
North Shore
Hodgkins:
Hayes
Landon
Meyers
North Shore
Holbrook:
Hayes
Holliday:
Hayes
Hollis:
Burlington
Hayes
Hollowayville:
Scherer‡
Hollywood:
Active Motor
Landon
Lightning
Meyers
North Shore
Homer:
Hayes
Homewood:
Active Motor
Catania Bros.
Hayes
Krema
Landon
Lightning
Meyers
North Shore
Pennoyer
Welsh Bros.
Hoopeston:
Hall
Hayes
North Shore
Hopedale:
Hayes
Houston:
Be-Mac(T)
Plaza(T)
Hoyleton:
Be-Mac(T)
Hayes
Hubbard Woods:
Krema
Landon
Meyers
North Shore
Hudgens:
Hayes
Hudson:
Hayes
Huey:
Be-Mac(T)
Hayes
Hull:
Burlington
Hayes
Humboldt:
Hayes
Scherer
Yellow Tran.
Hume:
Hayes
Humphreys:
Hayes
Hunt:
Hayes
Huntley:
Elgin
Landon
Hurst:
Be-Mac(T)
Hayes
Viking
Hutsonville:
Hayes
Yellow Tran.
Illinois Ordnance Plant:
Viking
Illiopolis:
Decatur
Hayes
North Shore
Peoria(T)
Ina:
Hayes
Indian Hills:
Meyers
Indian Oaks:
Hayes
Indianola:
Hayes
Industry:
Burlington◊
Ingalton:
Landon
North Shore
Inman:
Be-Mac(T)
Ipava:
Burlington
Hayes
Irondale:
Mart Motor
Irving:
Hayes
Irvington:
Be-Mac(T)
Hayes
Isabel:
Hayes
Itasca:
Elgin
Landon
North Shore
Iuka:
Be-Mac(T)
Hayes
Ivanhoe:
Lightning
Jacksonville:
Burlington◊
Decatur
Hayes
Mound City(T)
Peoria(T)
Plaza(T)
Scherer◊
Jamaica:
Hayes
Yellow Tran.
Jefferson Park:
Krema
Jeffersonville:
Hayes
Jelsyville:
Hayes
Jerome:
Scherer
Jerseyville:
Be-Mac(T)
Burlington
Hayes
Plaza(T)
Jewett:
Hayes
Johnsonville:
Be-Mac(T)
Johnston City:
Be-Mac(T)
Hayes
Viking
JOLIET:
Hayes◊
Keeshin
Krema
Landon
Meyers
North Shore
Rock Island
Joliet-Wilmington Government Reservation:
Keeshin
Jonesboro:
Be-Mac(T)
Hayes
Plaza(T)
Viking
Jones Ridge:
Plaza(T)
Joppa:
Be-Mac(T)
Joy:
Burlington
Junction:
Be-Mac(T)
Hayes
Junction City:
Hayes
Justice:
Landon
Meyers
North Shore
Kampsville:
Be-Mac(T)
Plaza(T)
Kane:
Be-Mac(T)
Hayes
Plaza(T)
KANKAKEE:
Hall◊
Hayes
North Shore
Yellow Tran.
Kankakee Ordnance Works:
Keeshin
Kansas:
Hayes
Yellow Tran.
Kappa:
Hayes
Karnak:
Be-Mac(T)
Hayes
Kasbeer:
Tobler
Kaskaskia:
Be-Mac(T)
Keenes:
Be-Mac(T)
Hayes
Keeneyville:
North Shore
Keensburg:
Be-Mac(T)
Hayes
Plaza(T)
Kell:
Be-Mac(T)
Yellow Tran.
Keller:
Rock Island
Kemp:
Hayes
Kenilworth:
Krema
Landon
Meyers
North Shore
Kenner:
Hayes
Kensington:
Catania Bros.
Krema
LaGrou Motor
Landon
Pennoyer
Welsh Bros.
Kepptown:
Hayes
Kewanee:
Burlington◊(T)
Scherer(T)
Keyesport:
Be-Mac(T)
Kickapoo:
Burlington
Kidd:
Be-Mac(T)
Kilbourne:
Hayes
Kincaid:
Hayes
Kinderhook:
Decatur
Hayes
Plaza(T)
Kingston Mines:
Burlington
Hayes
Kinmundy:
Be-Mac(T)
Hayes
Yellow Tran.
Kirkwood:
Burlington
Knollwood:
Landon
Knoxville:
Burlington
Kunzler:
Hayes
Laclede:
Hayes
Yellow Tran.
Lacon:
Scherer
Tobler
Ladd:
Scherer
Tobler
La Fayette:
Rock Island
La Fox:
Landon
La Grange (Cook Co.):
Active Motor
Catania Bros.
Keeshin
Krema
Landon
Lightning
Meyers
North Shore
Pennoyer
Scherer
La Grange Park:
Landon
Meyers
La Harpe:
Burlington
Lake Bluff:
Krema
Landon
Meyers
North Shore
Webber
Lake City:
Decatur
Hayes
Lake Forest:
Krema
Landon
Meyers
North Shore
Webber
Lakewood (Shelby Co.):
Hayes
Yellow Tran.
Lamotte:
Tobler
Lanesville:
Decatur
Hayes
North Shore
Langleyville:
Hayes
Lansing:
Active Motor
Krema
Landon
Lightning
Meyers
North Shore
Scherer
Welsh Bros.
La Place:
Decatur
Hayes
Scherer
Yellow Tran.
La Prairie:
Burlington‡
Hayes(T)
Larchland:
Burlington
Hayes
La Rose:
Scherer
Tobler
La Salle:
Decatur◊
Hayes
Keeshin
North Shore
Rock Island
Scherer◊
Tobler◊
Latham:
Decatur
Hayes
La Verne:
Landon
Lawndale:
Hayes
Lawrenceville:
Be-Mac(T)
Hayes
Plaza(T)
Yellow Tran.◊
Lebanon:
Be-Mac(T)
Hayes
Nighthawk(T)
Yellow Tran.
Ledford:
Be-Mac(T)
Hayes
Leesburg:
Hayes
Leland:
Scherer
Tobler
Lemont:
Hayes
Krema
Landon
Meyers
Lensburg:
Be-Mac(T)
Hayes
Plaza(T)
Leonore:
Tobler
Le Roy:
Hayes
Leslie:
Hayes
Lewistown:
Burlington
Hayes
Orochela
Lexington:
Hayes
North Shore
Libertyville:
Landon
Meyers
North Shore
Webber
Lima:
Burlington
Hayes
Orochela
Lincoln:
Decatur
Hayes
Mound City
North Shore
Peoria◊
Scherer◊
Yellow Tran.
Lincolnwood:
Active Motor
Catania Bros.
LaGrou Motor
Landon
Lightning
Meyers
North Harlem
North Shore
Pennoyer
Lintner:
Decatur
Hayes
Lisle:
Landon
Meyers
North Shore
Litchfield:
Be-Mac(T)
Decatur
Hayes
Mound City
Peoria(T)
Scherer◊
Yellow Tran.
Littleton:
Burlington
Little York:
Burlington
Livingston (Clark Co.):
Hayes
Livingston (Madison Co.):
Be-Mac(T)
Hayes
Loami:
Hayes(T)
Lockport:
Hayes
Keeshin
Krema
Landon
Meyers
North Shore
Lode:
Hayes
Yellow Tran.
Logan (Franklin Co.):
Be-Mac(T)
Hayes
Lombard:
Elgin
Landon
Meyers
North Shore
London Mills:
Burlington
Hayes
Long Creek:
Hayes
Longview (Champaign Co.):
Hayes

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ILLINOIS—Continued (Loraine to Maywood)

Loraine:
Burlington
Hayes(T)
Lostant:
Hayes
Scherer
Tobler
Louisville:
Hayes
Yellow Tran
Lovejoy:
Plaza(T)
Lovington:
Decatur
Hayes
Scherer
Lowpoint:
Scherer
Ludlow:
Hall
Hayes
Lyndon:
Keeshin
Lynn Center:
Burlington
Lyons
(Cook Co.):
Active Motor
Catania Bros.
Hayes
Keeshin
Krema
(Cont. next column

Landon
Lightning
Meyers
North Shore
Pennoyer
Scherer
McClure:
Be-Mac(T)
Hayes(T)
Plaza(T)
McCook:
Active Motor
Catania Bros.
Hayes
Keeshin
Krema
Landon
Lightning
Meyers
North Shore
Scherer
McGrath
[illegible]
Scherer
McHenry:
Elgin
McLean:
Hayes
McLeansboro:
Be-Mac(T)
Hayes
Plaza(T)
Yellow Tran ◊

McNabb:
Scherer
Tobler
Macedonia:
Be-Mac
Macomb:
Burlington◊◊‡
Hayes
Scherer(T)
Macon:
Hayes
Peoria(T)
Madison:
Be-Mac
Con. Fwd.
Decatur
Hayes
Keeshin
Mound City
Nighthawk(T)
Peoria
Plaza(T)
Scherer
Transamerican
Maeystown:
Be-Mac
Magnolia:
Scherer
Tobler
Mahomet:
Hayes
Makanda:
Plaza(T)

Malden:
Tobler
Malta:
Keeshin
Manchester:
Hayes
Plaza(T)
Manley:
Hayes
Mannheim:
Active Motor
Lightning
North Shore
Mansfield:
Hayes
Manteno:
Hayes
North Shore
Maple Park:
Landon
Maples Mill:
Burlington
Hayes
Mapleton:
Burlington
Hayes
Maplewood:
Be-Mac(T)
Nighthawk(T)
Maquon:
Burlington

Marcelline:
Hayes
Marcee:
Hayes
Marengo:
Elgin
Landon
Liberty
North Shore
Marietta:
Burlington
Hayes
Marion:
Be-Mac(T)
Hayes
Viking◊
Marissa:
Be-Mac(T)
Hayes
Nighthawk(T)
Plaza(T)
Mark:
Scherer
Tobler
Markham:
Active Motor
Landon
Lightning
North Shore
Marley (Will Co.):
Landon

Maroa:
Decatur
Hayes
Yellow Tran.
Marseilles:
Decatur
North Shore
Rock Island
Scherer
Tobler
Marshall:
Decatur
Hayes
Yellow Tran.
Martinsville:
Decatur
Hayes
Yellow Tran.
Martinton:
Hayes
Maryville:
Hayes
Nighthawk(T)
Plaza(T)
Mascoutah:
Hayes
Nighthawk(T)
Yellow Tran.
Mason (Effingham Co.):
Hayes
Yellow Tran.

Mason City:
Decatur
Hayes
Matteson:
Landon
Matthews:
Plaza(T)
Mattoon:
Decatur
Hayes◊◊
Scherer
Yellow Tran.◊
Maxwell
(Peoria Co.):
Hayes
Mayview:
Hayes
MAYWOOD:
Active Motor
Catania Bros.
Elgin
Hayes
Keeshin
Krema
LaGrou Motor
Landon
Lightning
Mart Motor
Meyers
North Shore
Pennoyer
Scherer

MR. TRAFFIC MANAGER:

Do You Know That

THE INDUSTRIAL TRAFFIC COUNCIL

of

THE CHICAGO ASSOCIATION OF COMMERCE AND INDUSTRY

Composed of Traffic Managers of Over 400 Leading Chicago Industrial Firms,

is

Organized to improve and develop Chicago's transportation facilities and services; to protect the Chicago Market as a manufacturing and distributing center and to provide a greater degree of coordination between the Industrial traffic representatives and all transportation agencies.

Regular meetings are held monthly to consider current transportation matters.

General Letters and Bulletins are published from time to time keeping members constantly informed of general transportation matters affecting the Chicago Market.

The interests of your Company can best be served through membership in the Industrial Traffic Council. Contact the Secretary for full particulars.

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THE CHICAGO ASSOCIATION OF COMMERCE AND INDUSTRY

"THE TRANSPORTATION VOICE OF THE CHICAGO MARKET"

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See pages 5 and 7 for full name, address and telephone number of Carriers. ‖ Refrigerator service also available.
◊Terminal. ◊◊Home Office.

Mazon:
Scherer
Mechanicsburg:
Hayes
Medinah:
Elgin
Landon
North Shore
Medora:
Be-Mac †
Hayes
Melrose Park:
Active Motor
Catania Bros.
Elgin
Hayes
Keeshin
Krema
LaGrou Motor
Landon
Lightning
Mart Motor
Meyers
North Shore
Pennoyer
Scherer
Melvin:
Hayes
Menard:
Be-Mac †
Hayes Ⓣ
Plaza Ⓣ
Mendon:
Burlington
Hayes
Mendota:
Decatur
Keeshin
Scherer◊
Tobler
Meredosia:
Decatur
Hayes
Plaza Ⓣ
Meriden:
Scherer
Tobler
Mermet:
Be-Mac †
Hayes
Metamora:
Scherer
Tobler
Metcalf:
Hayes
Metropolis:
Be-Mac Ⓣ
Hayes
Viking
Middlegrove:
Burlington
Hayes
Middlesworth:
Decatur
Hayes
Midlothian:
Active Motor
Landon
Lightning
Meyers
North Shore
Rock Island
Milan:
Burlington
Hayes
Interstate Dis.
Keeshin
Pioneer Ⓡ
Rock Island
Milford:
Hall
Hayes
North Shore
Mill Creek:
Be-Mac †
Viking
Miller City:
Be-Mac †
Millersville:
Hayes
Mill Shoals:
Be-Mac †
Millstadt:
Be-Mac Ⓣ
Plaza Ⓣ
Milmine:
Hayes
Milton:
Plaza Ⓣ
Mineral:
Rock Island
Minier:
Hayes
Minonk:
Hayes
Scherer
Tobler
Minooka:
Rock Island
Mitchell
(Madison Co.):
Be-Mac
Decatur
Hayes Ⓣ
Mound City
Nighthawk Ⓣ
Scherer
Yellow Tran.
Mitchellsville:
Hayes
Modesto:
Hayes
Mokena:
Landon
Rock Island
MOLINE:
Burlington Ⓡ
H. & W. Motor
Hayes
Interstate Dis. Ⓡ
Keeshin◊
Merchants◊
Peoria◊
Pioneer Ⓡ
Rock Island
Momence:
Hayes
Monee:
Hayes
North Shore
Monmouth:
Burlington
Hayes
Monsanto:
Be-Mac
Con. Fwd.
Decatur
Hayes
Interstate Dis.
Keeshin
Mound City
Nighthawk Ⓣ
Plaza
Scherer
Transamerican
Viking
Mont Clare:
Catania Bros.
Meyers
Montgomery:
Keeshin
Landon
Scherer
Monticello:
Decatur
Hayes
Montrose:
Decatur
Hayes
Yellow Tran
Mooseheart:
Elgin
Keeshin
Landon
Scherer
Morgan Park:
Active Motor
Lightning
Mart Motor
Meyers
Morris:
Decatur
Hayes
North Shore
Rock Island
Scherer
Tobler
Morrison:
Hayes Ⓣ
Keeshin
Morrisonville:
Decatur
Hayes
Yellow Tran.
Morton:
Decatur
Hayes
Peoria
Scherer
Morton Grove:
Active Motor
Krema
Landon
Lightning
Meyers
North Shore
Scherer
Mossville:
Scherer
Tobler
Mound City:
Be-Mac Ⓣ
Hayes
Plaza Ⓣ
Viking
Mounds:
Be-Mac Ⓣ
Hayes
Plaza Ⓣ
Viking
Mt. Carmel:
Be-Mac †
Hayes
Plaza Ⓣ
Mt. Clare:
Hayes
Mt. Greenwood:
Active Motor
Lightning
Meyers
Mt. Hawley Airport
(Peoria Co.):
Keeshin
Peoria
Scherer
Mount Morris:
Keeshin
Mt. Olive:
Be-Mac Ⓣ
Decatur
Hayes
Mound City
Yellow Tran.
Mt. Pleasant:
Hayes
Viking
Mt. Prospect:
Hayes
Landon
Meyers
North Shore
Mt. Pulaski:
Decatur
Hayes
Yellow Tran
Mt. Sterling:
Burlington‡
Decatur
Hayes
Orscheln
Mt. Vernon:
Be-Mac †
Hayes
Plaza Ⓣ
Viking◊
Yellow Tran.◊
Mt. Zion:
Decatur
Hayes
Scherer
Yellow Tran
Moweaqua:
Decatur
Hayes
Peoria Ⓣ
Muddy:
Hayes
Scherer
Viking
Mulberry Grove:
Be-Mac Ⓣ
Hayes
Viking
Yellow Tran.
Mulkeytown:
Be-Mac Ⓣ
Hayes
Muncie:
Hayes
Mundelein:
Landon
Munger
(Du Page Co.):
Landon
North Shore
Murdock:
Hayes
Murphysboro:
Be-Mac Ⓣ
Hayes
Plaza Ⓣ
Viking
Murrayville:
Hayes
Plaza Ⓣ
Nameoki:
Be-Mac
Decatur
Mound City
Nighthawk Ⓣ
Plaza
Scherer
Transamerican
Naperville:
Landon
Meyers
North Shore
Scherer
Naplate:
Scherer
Narita:
Hayes Ⓣ
Nashville:
Be-Mac Ⓣ
Hayes
Yellow Tran
National City:
Be-Mac
Burlington‡
Con. Fwd.
Decatur
Hayes
Mound City
Peoria
Plaza
Scherer
Transamerican
Viking
National Stock Yards:
Be-Mac
Hayes
Keeshin
Mound City
Plaza
Transamerican
Nauvoo:
Burlington
Hayes
Nebo:
Plaza Ⓣ
Neilson:
Hayes
Nekoma:
Burlington
Neoga:
Hayes
Yellow Tran.
Neponset:
Burlington
Newark:
Scherer
Tobler
New Athens:
Be-Mac Ⓣ
Hayes
Nighthawk Ⓣ
Plaza Ⓣ
New Baden:
Nighthawk Ⓣ
New Berlin:
Decatur
Hayes
New Boston:
Burlington
New Burnside:
Be-Mac Ⓣ
Hayes
New Canton:
Plaza Ⓣ
New Columbia:
Be-Mac †
New Dennison:
Be-Mac †
Hayes
New Haven:
Be-Mac Ⓣ
New Lenox:
Landon
Rock Island
Newman:
Hayes
Yellow Tran.
New Memphis:
Hayes
New Minden:
Hayes
New Philadelphia:
Burlington
Hayes
New Providence:
Hayes
New Shawneetown:
Hayes
Newton:
Hayes
Yellow Tran ◊
New Windsor:
Burlington
Niantic:
Decatur
Hayes
North Shore
Niles:
Active Motor
Krema
Landon
Lightning
Meyers
North Shore
Pennoyer
Scherer
Niles Center:
(See Skokie)
Nilwood:
Decatur
Hayes
Niota:
Burlington
Hayes
Noble:
Be-Mac †
Hayes
Yellow Tran.
Nokomis:
Hayes
Yellow Tran.
Normal:
Decatur
Hall
Hayes
Mound City
North Shore
Peoria
Scherer
Yellow Tran.
Norris:
Burlington
Hayes
Norris City:
Be-Mac Ⓣ
Hayes
North Aurora:
Keeshin
Landon
Scherer
Northbrook:
Krema
Landon
Meyers
North Shore
Scherer
North Chicago:
Advance Ⓡ
Cushman
Keeshin
Krema◊
Landon
Meyers
Olson, Fred
Pennoyer
Scheffler
Webber
No. Chillicothe:
Scherer
North City:
Hayes
Northfield:
Krema
Landon
Meyers
North Shore
North Glen Ellyn:
Landon
North Riverside:
Hayes
Landon
Meyers
North Utica:
Scherer
Norway:
Scherer
Norwood Park:
Active Motor
Krema
LaGrou Motor
Landon
Lightning
Meyers
North Shore
Pennoyer
Oakford:
Hayes
Oak Forest:
Active Motor
Catania Bros.
Landon
Lightning
Meyers
North Shore
Oak Glen:
Meyers
Welsh Bros.
Oakland
(Coles Co.):
Hayes
Yellow Tran.
Oak Lawn:
Active Motor
Catania Bros.
Landon
Lightning
Meyers
North Shore
OAK PARK:
Active Motor
Catania Bros.
Elgin
Hayes
Keeshin
Krema
LaGrou Motor
Landon
Lightning
Mart Motor
Meyers
North Shore
Pennoyer
Scherer
Oakwood:
Hayes
Yellow Tran.
Oblong:
Hayes
Yellow Tran.
Oconee:
Yellow Tran.
Ocoya:
Hayes
Odell:
Hayes
North Shore
Odin:
Be-Mac Ⓣ
Hayes
Yellow Tran.

Trucking service shown herein is Direct via Carrier shown, except as noted. See pages 5 and 7 for full name, address and telephone number of Carriers.
◊Terminal. ‡Intra-State Service Only.
Ⓣ Service involves transfer to a connecting carrier en route.
Ⓡ Refrigerator service also available.

Peotone:
Hayes
North Shore
Perry:
Be-Mac Ⓣ
Hayes Ⓣ
Plaza Ⓣ
Perry:
Plaza Ⓣ
Peru:
Decatur
Hayes
Keeshin
North Shore
Rock Island
Scherer
Tobler◊◊
Pesotum:
Hayes
Yellow Tran.
Peters:
Plaza Ⓣ
Petersburg:
Hayes
Peoria Ⓣ
Philadelphia:
Decatur
Hayes
Philo:
Hayes
Phoenix (Cook Co.):
Active Motor
Hayes
Landon
(Cont. next column)
Lightning
Meyers
North Shore
Pennoyer
Piasa:
Be-Mac Ⓣ
Hayes
Pierron:
Hayes
Pierson Station:
Hayes
Pinckneyville:
Be-Mac Ⓣ
Plaza Ⓣ
Pingree Grove:
Elgin
Landon
Pinkstaff:
Hayes
Piper City:
Hayes
Pittsburg (Williamson Co.):
Hayes
Pittsfield:
Decatur
Hayes
Plaza Ⓣ
Plainfield:
Landon
Plainville:
Decatur
Hayes
Plaza Ⓣ
Plano:
Scherer
Tobler
Plato Center:
Elgin
Pleasant Hill:
Plaza Ⓣ
Pleasant Plains:
Decatur
Hayes
Pleasant View:
Hayes
Plumfield:
Be-Mac Ⓣ
Hayes
Viking
Plymouth:
Burlington
Hayes
Pocahontas:
Be-Mac Ⓣ
Hayes
Viking
Yellow Tran.
Pollard:
Hayes
Polo:
Keeshin
Pomona:
Plaza Ⓣ
Pontiac (Livingston Co.):
Hall◊
Hayes
Mound City
North Shore
Pontoosuc:
Burlington
Hayes
Poplar Grove:
Liberty
Posen:
Active Motor
Krema
Landon
Lightning
Meyers
North Shore
Pennoyer
Potomac:
Hayes
Powerton:
Hayes
Prairie Center:
Scherer
Prairie City:
Burlington
Hayes
Prairie Du Rocher:
Be-Mac Ⓣ
Plaza Ⓣ
Prairie View:
Landon
Prentice:
Hayes
Prince Crossing:
Landon
Princeton:
Burlington
Decatur
Scherer◊
Tobler
Princeville:
Burlington
Rock Island
Prophetstown:
Keeshin
Prospect Heights:
Landon
Meyers
North Shore
Proviso:
Landon◊
Pulaski:
Be-Mac Ⓣ
Hayes
Viking
Pulleys Mill:
Be-Mac Ⓣ
Hayes
Pullman:
Active Motor
Catania Bros.
Krema
LaGrou Motor
Landon
Lightning
Mart Motor
Meyers
Pennoyer
Welsh Bros.
Putnam:
Rock Island
Tobler
Pyatts:
Be-Mac Ⓣ
Hayes
Plaza Ⓣ
QUINCY:
Burlington◊◊ Ⓣ
Decatur◊
Hayes◊
Orscheln◊
Scherer Ⓣ
Raddle:
Plaza Ⓣ
Radford:
Decatur
Hayes
Raleigh:
Be-Mac
Hayes
Ramsey:
Yellow Tran.
Randolph:
Decatur
Rantoul:
Decatur
Hall
Hayes
Yellow Tran.
Rapatee:
Burlington
Hayes
Ravinia:
Krema
Landon
Meyers
Raymond:
Decatur
Hayes
Reader:
Be-Mac Ⓣ
Hayes
Red Bud:
Be-Mac Ⓣ
Hayes Ⓣ
Plaza Ⓣ
Redmon:
Hayes
Reevesville:
Be-Mac Ⓣ
Renault:
Be-Mac Ⓣ
Reynolds:
Burlington
Reynoldsville:
Be-Mac Ⓣ
Richland:
Hayes
Richton:
Landon
Richview:
Hayes
Ridgefarm:
Hall
Hayes
Yellow Tran.
Ridgefield:
Elgin
Landon
Ridgeway:
Be-Mac Ⓣ
Hayes
Riggston:
Burlington
Decatur
Plaza Ⓣ

ESTABLISHED 1912

H. J. TOBLER TRANSFER INC.

TEL. 900

LA SALLE PERU ILL

Terminals

PEORIA, ILL.
117 S. Water Street
Phone 6-7864

ROCK FALLS, ILL.
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Phone 1794

2298 SOUTH UNION AVENUE - - - Telephone HAymarket 1-6700

GENERAL OFFICES
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Peru, Illinois
TELEPHONE: 900

Direct Overnight Service between **CHICAGO** *and*

DIXON LA SALLE
OTTAWA PEORIA
PERU ROCK FALLS
STERLING STREATOR

Motor Carrier Embargoes

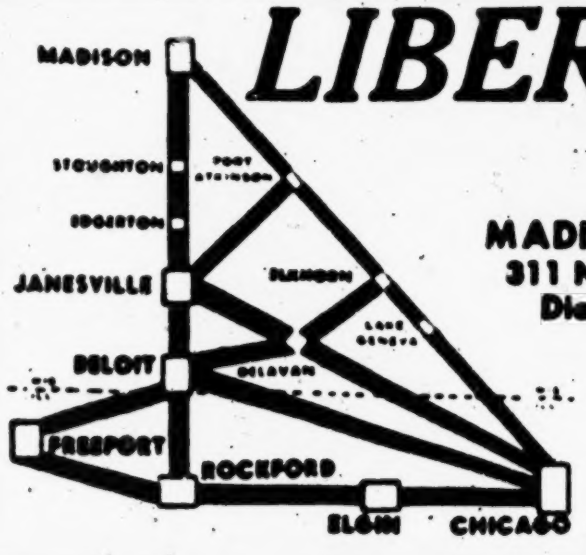
In an order issued by the Interstate Commerce Commission, effective April 15, 1943, motor common carriers of property may issue embargoes on their services, when, because of lack of facilities or personnel or any other reason beyond its control, it is unable to perform the transportation services requested.

"Way to Ship" subscribers have been and will continue to be furnished with notices of all embargoes issued by motor carriers, members of The Chicago Association of Commerce and Industry. We suggest that our subscribers consult these embargo notices and advise us of any case where a carrier refuses freight for a point to which he is shown in this guide as having service and to which an embargo has not been issued.

Trucking service shown herein is Direct via Carrier shown, except as noted. See pages 5 and 7 for full name, address and telephone number of Carriers.
◊Terminal. ◊◊Home Office.
Ⓣ Service involves transfer to a connecting carrier en route.
Ⓡ Refrigerator service also available.

(Fd. 2470 - p. 62)

Rileyville:
Be-Mac T
Hayes
Rio:
Burlington
Ripley:
Burlington
Decatur
Hayes T
Orscheln
Rising:
Hayes
Risk:
Hayes
Riverdale:
Active Motor
Keeshin
Krema
Landon
Lightning
Meyers
North Shore
Pennoyer
Scherer
Welsh Bros.
River Forest:
Active Motor
Catania Bros.
Elgin
Hayes
Keeshin
Krema
LaGrou Motor
Landon
Lightning
Meyers
North Shore
Pennoyer
River Grove:
Active Motor
Elgin
Hayes
Krema
Landon
Lightning
Meyers
North Harlem
North Shore
Pennoyer
Riverside:
Active Motor
Catania Bros.
Hayes
Krema
Landon
Lightning
Mart Motor
Meyers
North Shore
Riverton:
Decatur
Hayes
Roanoke:
Scherer
Tobler
Robbins:
Active Motor
Landon
Lightning
Meyers
North Shore
Roberts:
Hayes
Robertson Field:
Best
Robinson:
Hayes
Yellow Tran. ◊
Rochelle:
Keeshin
North Shore
Rochester
(Sangamon Co.):
Hayes
Peoria T
Rockbridge:
Be-Mac T
Hayes
Rockdale:
Hayes
Keeshin
Landon
Rock Falls:
Keeshin
Tobler ◊
ROCKFORD:
Be-Mac
Chi-Dubuque ◊
Gateway ◊
Keeshin ◊
Landon ◊
Liberty ◊
North Shore ◊
ROCK ISLAND:
Burlington ◊ ®
H. & W. Motor
Hayes ◊
Interstate Dis. ◊ ®
Keeshin
Merchants
Peoria
Pioneer ◊◊ ®
Rock Island
Rock Island Arsenal:
(See Rock Island)
Rockport:
Be-Mac ‡
Plaza T
Rockton:
Liberty
Rockwood:
Be-Mac T
Plaza T
Rome (Jefferson Co.):
Hayes
Rome (Peoria Co.):
Peoria
Scherer
Tobler
Romeo:
Landon
Rondout:
Landon
Roodhouse:
Hayes
Plaza T
Rosamond:
Hayes
Roscoe:
Liberty
Rose Hill
(Jasper Co.):
Hayes
Roseland:
Active Motor
Krema
LaGrou Motor
Landon
Lightning
Mart Motor
Meyers
Pennoyer
Welsh Bros.
Roselle:
Elgin
Landon
North Shore
Roseville:
Burlington
Hayes
Rosiclare:
Be-Mac T
Hayes
Rossville:
Hall
Hayes
Round Grove:
Keeshin
Royana
(Madison Co.):
Be-Mac
Con. Fwd. T
Decatur
Hayes
Interstate Dis.
Mound City
Plaza
Scherer
Transamerican
Royalton:
Be-Mac T
Hayes
Rudement:
Hayes
Ruma:
Be-Mac T
Hayes T
Plaza T
Rushville:
Burlington ◊
Decatur
Hayes
Orscheln
Scherer T
Russell:
Landon
Russellville:
Hayes
Rutherford:
Hayes
Rutland:
Hayes
Scherer
Tobler
Saidora:
Decatur
Hayes T
St. Anna:
Hayes
St. Augustine:
Burlington
Hayes
St. Charles:
Elgin
Keeshin
Landon
Meyers
Scherer
St. David:
Burlington
Hayes
St. Elmo:
Hayes
Viking
Yellow Tran.
St. Francisville:
Hayes
St. Jacob:
Be-Mac T
Hayes
Nighthawk T
Plaza T
Viking
Yellow Tran.
St. Johns:
Hayes
St. Joseph:
Hayes
Yellow Tran.
St. Peter:
Hayes
St. Rose:
Hayes
Salem:
Be-Mac T
Hayes
Plaza T
Yellow Tran. ◊
Sandoval:
Be-Mac T
Hayes
Plaza T
Yellow Tran.
Sand Ridge:
Be-Mac T
Plaza T
Sandusky:
Be-Mac T
Sandwich:
Scherer
Tobler
San Jose:
Hayes
Sauganash:
Mart Motor
Saunemin:
Hayes
Savoy:
Hayes
Yellow Tran.
Sawyerville:
Hayes
Schicks Crossing:
Landon
Schiller Park:
Active Motor
Elgin
Krema
Landon
Lightning
Meyers
North Harlem
North Shore
Pennoyer
Schram City:
Hayes
Schuline:
Plaza T
Scioto:
Burlington
Hayes T
Scott Field:
Be-Mac T
Hayes
Nighthawk T
Plaza T
Scottsburg:
Hayes
Seatonville:
Scherer ‡
Tobler
Secor:
Hayes
Peoria
Scherer
Tobler
Selbytown:
Hayes
Selmaville:
Hayes
Seneca:
Decatur
Rock Island
Scherer
Tobler
Serena:
Scherer
Tobler
Sesser:
Be-Mac T
Hayes
Seville:
Burlington
Seymour:
Hayes
North Shore
Sharpsburg:
Hayes
Shattuc:
Be-Mac T
Hayes
Shawneetown:
Be-Mac T
Hayes
Sheffield:
Burlington
Rock Island
Shelbyville:
Decatur
Hayes
Peoria T
Scherer T
Yellow Tran. ◊
Sheldon:
Hayes T
Sheridan:
Scherer
Tobler
Sherman:
Decatur
Hayes
North Shore
Shiloh:
Be-Mac T
Shipman:
Be-Mac T
Shobonier:
Hayes
Shumway:
Hayes
Sibley:
Hayes
Sicily:
Hayes
Sidell:
Hayes
Sidney:
Hayes
Sigel:
Hayes
Yellow Tran.
Silvis:
Burlington ‡
Hayes
Interstate Dis.
Keeshin
Merchants
Peoria
Pioneer ®
Rock Island
Sims:
Be-Mac T
Hayes
Skokie:
Active Motor
Krema
LaGrou Motor
Landon
Lightning
Meyers
North Harlem
North Shore
Pennoyer
Scherer
Smithboro:
Hayes
Viking
Smithfield:
Burlington
Smithton:
Be-Mac T
Plaza T
Soldiers Home:
Hayes
Somonauk:
Scherer
Tobler
So. Addison:
Landon
So. Beloit:
Gateway
Keeshin
Liberty



LIBERTY TRUCKING CO.

FAST — COURTEOUS — DEPENDABLE

BRANCH OFFICES & TERMINALS

MADISON, WIS.
311 No. Third St.
Dial 4-2455

JANESVILLE, WIS.
950 Industrial Ave.
Dial 6668

BELOIT, WIS.
105 Park Ave.
Tel. College 2600

FREEPORT, ILL.
103 S. Howard St.
Tel. Main 3020

ROCKFORD, ILL.
1311 Preston St.
Dial 3-3456

ELGIN, ILL.
414 McBride St.
Tel. Elgin 2224

GENERAL OFFICE AND TERMINAL
1401 W. Fulton St. - CHICAGO - HAymarket 1-2100

Trucking service shown herein is Direct via Carrier shown, except as noted. See pages 5 and 7 for full name, address and telephone number of Carriers.
T Service involves transfer to a connecting carrier en route.
® Refrigerator service also available.
◊ Terminal. ◊◊ Home Office. ‡ Intra-State Service Only.

So. Chicago:
Active Motor
Catania Bros.
Hayes
Krema
LaGrou Motor
Landon
Lightning
Mart Motor
Meyers
Pennoyer
Welsh Bros.

So. Chicago Heights:
Hayes
Landon
Meyers

So. Elgin:
Elgin
Landon
Scherer

So. Highland:
Meyers

So. Holland:
Hayes
Krema
Landon
Lightning
Meyers
Pennoyer
Rock Island
Welsh Bros

So. Jacksonville:
Burlington‡
Decatur
Hayes

So. Pekin:
Decatur
Hayes
Keeshin

Sparland:
Rock Island
Scherer
Tobler

Sparta:
Be-Mac (T)
Hayes
Nighthawk (T)
Plaza (T)

Spaulding (Cook Co.):
Landon

Speer:
Peoria

Spencer (Will Co.):
Landon

Spillertown:
Be-Mac (T)
Hayes
Viking

Springerton:
Be-Mac (T)

SPRINGFIELD:
Be-Mac
Con. Fwd ♦
Decatur ♦ (R)
Hayes ♦
Mound City ♦
Nighthawk ♦‡
North Shore ♦
Peoria ♦ (R)
Scherer ♦

Spring Valley:
Decatur
Hayes
Keeshin
North Shore
Rock Island
Scherer
Tobler

Staleys:
Decatur
Hayes
North Shore

Standard:
Scherer

Stark:
Burlington
Rock Island

State Line:
Hayes

Stateville:
Landon

Staunton:
Be-Mac (T)
Hayes
Mound City
Peoria (T)
Yellow Tran.

Steele:
Landon

Steeleville:
Be-Mac (T)
Hayes (T)
Plaza (T)

Steger:
Hayes
Landon
North Shore

Sterling:
Keeshin ♦
Tobler ♦

Stewardson:
Hayes
Yellow Tran.

Stickney:
Active Motor
Catania Bros.
Hayes
Keeshin
Krema
Landon
Lightning
Meyers
North Shore

Stockton:
Chi-Dubuque
H. & W. Motor

Stonefort:
Be-Mac (T)

Stone Park:
Active Motor
Landon
Lightning
Meyers

Stonington:
Decatur
Hayes
Mound City

Stoy:
Hayes

Strasburg:
Hayes

Strawn:
Hayes

Streator:
Decatur
Hayes
Scherer ♦
Tobler

Stubblefield:
Be-Mac (T)
Hayes
Viking
Yellow Tran.

Sublette:
Tobler

Sullivan (Moultrie Co.):
Decatur
Hayes
Scherer
Yellow Tran. ♦

Summerfield:
Be-Mac (T)
Nighthawk (T)

Summer Hill:
Plaza (T)

Summit (Cook Co.):
Active Motor
Hayes
Keeshin
Krema
Landon
Lightning
Meyers

Summum:
Burlington
Hayes (T)
Orscheln

Sumner:
Hayes
Yellow Tran.

Sunfield:
Hayes

Sunny Hill:
Burlington‡

Swan Creek:
Burlington

Swansea:
Be-Mac (T)
Hayes (T)

Swanwick:
Be-Mac (T)
Hayes
Plaza (T)

Swift:
Landon

Sycamore:
Elgin
Keeshin
Landon
Liberty
North Shore

Table Grove:
Burlington
Hayes

Tallula:
Hayes

Tamaroa:
Be-Mac (T)
Hayes

Tamms:
Be-Mac (T)
Hayes
Plaza (T)
Viking

Taylor Ridge:
Burlington

Taylor Springs:
Be-Mac (T)
Hayes

Taylorville:
Decatur
Hayes
Mound City
Peoria (T)
Scherer (T)
Yellow Tran

Techny:
Krema
Landon
Meyers
North Shore

Teheran:
Hayes

Tennessee:
Burlington
Hayes

Terra Cotta:
Elgin
Landon

Tessville:
Active Motor
Lightning
Meyers
Pennoyer

Teutopolis:
Decatur
Hayes
Viking
Yellow Tran.

Texas City:
Be-Mac (T)

Texico:
Be-Mac

Thawville:
Hayes

Thayer:
Decatur
Hayes

Thebes:
Be-Mac (T)
Hayes
Plaza (T)

Thomasboro:
Hall
Hayes

Thomasville:
Hayes

Thompsonville:
Be-Mac (T)
Hayes

Thornton:
Active Motor
Hayes
Krema
Landon
Lightning
Meyers
North Shore
Pennoyer
Welsh Bros.

Thornton Jct.:
Landon

Tilden:
Be-Mac (T)
Hayes
Plaza (T)

Tilton:
Decatur
Hall
Hayes
Yellow Tran.

Timewell:
Hayes

Tinley Park:
Active Motor
Landon
Lightning
Meyers
Rock Island

Tiskilwa:
Rock Island

Toledo:
Hayes
Yellow Tran.

Tolono:
Hayes
Yellow Tran.

Toluca:
Scherer
Tobler

Tonica:
Hayes
Scherer
Tobler

Toronto:
Hayes

Toulon:
Burlington
Rock Island

Tovey:
Hayes

Towanda:
Hayes
North Shore

Tower Hill:
Decatur
Hayes

Tremont:
Hayes

Trenton:
Be-Mac (T)
Hayes
Nighthawk (T)
Yellow Tran.

Trimble:
Hayes

Trivoli:
Burlington
Hayes

Troy (Madison Co.):
Be-Mac (T)
Hayes
Nighthawk (T)
Plaza (T)
Viking
Yellow Tran.

Troy (Will Co.):
Scherer

Troy Grove:
Scherer
Tobler

Tuscola:
Decatur
Hayes
Yellow Tran.

Ulah:
Rock Island

Ullin:
Be-Mac (T)
Hayes
Viking

Ulrich:
Hayes
Scherer

Union (McHenry Co.):
Elgin
Landon

Union Grove:
Keeshin

Unity:
Be-Mac (T)
Hayes (T)
Viking

Urbana:
Decatur
Hall ♦
Hayes
North Shore
Scherer (T)
Yellow Tran.

Urса:
Burlington
Hayes
Orscheln

Utica:
Rock Island
Scherer
Tobler

Valier:
Be-Mac (T)
Hayes

Valley City:
Plaza (T)

Valmeyer:
Be-Mac (T)
Plaza (T)

Vandalia:
Be-Mac (T)
Hayes
Viking
Yellow Tran.

Van Orin:
Tobler

Varna:
Scherer
Tobler

Velma:
Hayes

Venice:
Be-Mac
Con. Fwd.
Decatur
Hayes (T)
Keeshin
Mound City
Nighthawk (T)
Peoria
Plaza
Scherer
Transamerican

Vergennes:
Be-Mac (T)
Hayes (T)
Plaza (T)

Vermilion:
Hayes (T)

Vermilion Grove:
Hayes

Vermont:
Burlington

Vernon:
Be-Mac (T)
Hayes

Versailles:
Decatur
Hayes

Vevay Park:
Hayes
Yellow Tran.

Vienna:
Be-Mac (T)
Hayes

Villa Grove:
Hayes
Yellow Tran.

Villa Park:
Elgin
Krema
Landon
Meyers
North Shore

Villa Ridge:
Be-Mac (T)
Hayes
Viking

Viola:
Burlington
Hayes

Virden:
Decatur
Hayes
Peoria (T)

Virginia:
Decatur
Hayes

Wadsworth:
Landon

Wady Petra:
Rock Island

Waggoner:
Decatur
Hayes

Walker (Macon Co.):
Hayes

Walnut:
Tobler

Walnut Prairie:
Hayes

Waltersburg:
Be-Mac (T)

Waltonville:
Be-Mac (T)

Wamac:
Hayes
Viking

Wapella:
Decatur
Hayes
Yellow Tran.

Ware:
Be-Mac (T)

Warren:
H. & W. Motor

Warrensburg:
Decatur
Hayes

Warrenville:
Landon

Warsaw:
Hayes

Washburn:
Scherer
Tobler

Washington:
Hayes
Peoria
Scherer
Tobler

Washington Heights:
Meyers

Washington Park:
Be-Mac
Hayes
Mound City
Plaza
Scherer
Transamerican

Wasson:
Be-Mac (T)
Hayes
Viking

Wataga:
Burlington

Waterloo:
Be-Mac (T)
Hayes (T)
Nighthawk (T)
Plaza (R)

Watseka:
Hall
Hayes
North Shore

Watson (Effingham Co.):
Hayes
Yellow Tran.

WAUKEGAN:
Advance (R)
Cushman
Hall
Keeshin
Krema
Landon
Meyers
North Shore ♦
Olson, Fred ♦ (R)
Pennoyer
Scheffler
Webber ♦♦

Waverly:
Hayes

Wayne:
Elgin
Landon

Wayne City:
Be-Mac (T)
Hayes

Trucking service shown herein is Direct via Carrier shown, except as noted. (T) Service involves transfer to a connecting carrier en route.
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♦ Terminal. ♦♦ Home Office. ‡ Intra-State Service Only.

Weaver:
Viking
Wedron:
Scherer
Weedman:
Hayes
Weldon:
Decatur
Hayes
Wellington:
Hayes
Wenona:
Hayes
Scherer
Tobler
West Batavia:
Landon
Westchester:
Active Motor
Landon
Lightning
Meyers
North Shore
West Chicago:
Elgin
Landon
Meyers
North Shore
West City:
Be-Mac (T)
Hayes
West Dundee:
Landon
West End:
Be-Mac (T)
Hayes
Western Springs:
Active Motor
Landon
Lightning
Meyers
North Shore
Westfield:
Hayes
Yellow Tran.
West Frankfort:
Be-Mac (T)
Hayes
Plaza (T)
Viking
West Havana:
Hayes
West Lake Forest:
Landon
Meyers
Westmont:
Landon
Meyers
North Shore
West Peoria:
Keeshin
West Pullman:
Landon
Mart Motor
Meyers
Pennoyer
Welsh Bros.
West Salem:
Be-Mac (T)
West Union:
Hayes
Yellow Tran.
West Vienna:
Be-Mac (T)
Hayes
Westville:
Hall
Hayes
Yellow Tran.
West Waukegan:
Landon
West York:
Hayes
Yellow Tran.
Wetaug:
Hayes
Viking
Wheaton:
Elgin
Landon
Meyers
North Shore
Wheeling:
Landon
North Shore
Whiteash:
Be-Mac (T)
Hayes
Viking
White City (Macoupin Co.):
Be-Mac (T)
White Hall:
Burlington
Hayes
Plaza (T)
White Heath:
Hayes
North Shore
Whittington:
Be-Mac (T)
Hayes
Wiehert:
Hayes
Willeys:
Decatur
Hayes
Williamsburg:
Hayes
Scherer
Williamsfield:
Burlington‡
Williamson:
Be-Mac (T)
Williamsville:
Be-Mac (T)
Decatur
Hayes
Willisville:
Be-Mac (T)
Hayes (T)
Plaza (T)
Willow Hill:
Hayes
Willow Springs:
Active Motor
Landon
Lightning
Meyers
Wilmette:
Krema
Landon
Meyers
North Shore
Webber
Wilmington (Will Co.):
Hayes
Wilson:
Landon
Wilsonville:
Hayes
Wilton:
Landon
Winchester:
Burlington
Decatur
Hayes
Plaza (T)
Windsor (Shelby Co.):
Decatur
Hayes
Yellow Tran.
Winfield:
Elgin
Landon
Meyers
North Shore
Wing:
Hayes
Winnetka:
Krema
Landon
Meyers
North Shore
Winthrop Harbor:
Olson, Fred
Webber
Witt:
Hayes
Yellow Tran.
Wolf Lake:
Be-Mac (T)
Plaza (T)
Woodberry:
Decatur
Hayes
Woodbine:
Chi-Dubuque
H. & W. Motor
Wooddale:
Elgin
Landon
North Shore
Woodford:
Scherer
Woodhull:
Burlington
Woodland:
Hayes
Wood River:
Be-Mac
Burlington
Con. Fwd.
Decatur
Hayes
Interstate Dis.
Mound City
Nighthawk (T)
Peoria (T)
Plaza
Scherer
Transamerican
Yellow Tran.
Woodson:
Hayes
Plaza (T)
Woodstock:
Elgin
Landon
Liberty
Worden:
Hayes
Worth:
Active Motor
Landon
Lightning
North Shore
Worth Race Track:
Landon
Wyanet:
Burlington
Rock Island
Wyoming:
Burlington
Peoria (T)
Rock Island
Xenia:
Hayes
Yellow Tran.
Yale:
Hayes
Yates City:
Burlington
Yorkville:
Scherer
Yutan:
Hayes
Zearing:
Tobler
Zeigler:
Be-Mac (T)
Hayes
Viking
Zion:
Hall
Krema
Landon
Meyers
North Shore
Olson, Fred
Webber

INDIANA (Abbey Dell to Bristol)

Abbey Dell:
Hayes (T)
Abolte:
Hayes
Acton:
Adkins (T)
Hayes (T)
Holland
Ada:
Northwestern (T)
Aetna:
Welsh Bros.
Ainsworth:
Northwestern
Akron:
Hayes
Alexandria:
Foster (T)
Hayes
Kain's ◊
Motor Exp.
Northwestern (T)
Security (T)
Alida:
Northwestern
Allisonville:
Foster
Silver Fleet
Alto:
Northwestern (T)
Amboy:
Hayes
Kain's
Americus:
Kain's
Amity:
Foster
Huber (T)
Amo:
Adkins (T)
Northwestern (T)
ANDERSON:
Decatur ◊
Foster (T)
Haeckl's Exp. ◊
Hayes
Hinchcliff ◊
Huber (T)
Kain's
Keeshin
Motor Exp. ◊
Northwestern (T)
Security (T)
Terminal Tr. (T)
Transamerican
Andersonville:
Adkins (T)
Andrews:
Hayes
Kain's
Northwestern (T)
Security (T)
Angola:
Hayes (T)
Norwalk
Security (T)
Anthony:
Hayes
Northwestern
Antioch (Clinton Co.):
Northwestern (T)
Ardmore:
Northwestern
Argos:
Hayes
Kain's
Northwestern (T)
Arlington:
Adkins (T)
Foster
Ashley:
Days
Security (T)
Atherton:
Hayes (T)
Northwestern (T)
Atkinson:
Northwestern (T)
Attica:
Northwestern (T)
Atwood:
Security (T)
Auburn:
Days ◊
Hayes (T)
Keeshin
Norwalk ◊
Augusta:
Northwestern (◊)
Aurora:
Adkins (T)
Huber (T)
Northwestern (T)
Security (T)
Standard T.
Terminal Tr. (T)
Austin:
Foster (T)
Hayes (T)
Huber (R)
Northwestern (T)
Silver Fleet
Terminal Tr. (T)
Avilla:
Norwalk
O. I. M.
Security (T)
Avon:
Hayes (T)
Baer Field:
Norwalk
O. I. M.
Security
Bainbridge:
Hayes (T)
Northwestern (T)
Bakers Corners:
Hayes (T)
Bargersville:
Huber (R)
Silver Fleet
Barnard:
Northwestern (T)
Bass:
Hayes
Northwestern (T)
Bass Lake:
Hayes
Kain's
Northwestern (T)
Batesville:
Adkins (T)
Holland
Huber (T)
Security (T)
Silver Fleet (T)
Terminal Tr. (T)
Battle Ground:
Northwestern (T)
Bean Blossom:
Adkins (T)
Beard:
Northwestern (T)
Beardstown:
Hayes
Northwestern (T)
Beatrice:
Northwestern
Bedford:
Adkins (T)
Huber (T)
Northwestern (T)
Security (T)
Silver Fleet (T)
Terminal Tr. (T)
Beech Grove:
Adkins
Con. Fwd.
Cushman
Decatur
Foster
Hayes
Interstate Dis.
Terminal Tr. (T)
Transamerican (R)
Belle Union:
Northwestern (T)
Belleville:
Hayes
Northwestern (T)
Ben Davis:
Adkins (T)
Con. Fwd.
Decatur
Foster
Hayes
Interstate Dis.
Transamerican (R)
Bennetts Switch:
Hayes
Benton:
Days
F. & S.
Norwalk
Berne:
Hayes (T)
Motor Exp.
O. I. M. (T)
Beverly Shores:
Northwestern
Bicknell:
Terminal Tr. (T)
Blairsville:
Hayes (T)
Bloomfield:
Adkins (T)
Terminal Tr. (T)
Bloomingdale:
Hayes (T)
BLOOMINGTON:
Adkins (T)
Foster (T)
Huber (T)
Interstate Dis (T)
Northwestern (T)
Silver Fleet (T)
Terminal Tr. (T)
Bluff Point:
O. I. M. (T)
Bluffton:
Hayes (T)
Keeshin
Northwestern (T)
O. I. M. (T)
Security (T)
Boone:
Hayes (T)
Boonville:
Silver Fleet (T)
Terminal Tr. (T)
Borden:
Huber (T)
Bourbon:
Security
Boylston:
Northwestern (T)
Brazil:
Adkins (T)
Hayes
Northwestern (T)
Silver Fleet (T)
Terminal Tr. (T)
Bremen:
Norwalk
Bridgeport:
Adkins (T)
Foster (T)
Hayes
Huber (T)
Brightwood:
Con. Fwd.
Cushman
Foster
Transamerican (R)
Brimfield:
Days
Norwalk
Security (T)
Bringhurst:
Northwestern (T)
Bristol:
Days
Northwestern
Norwalk

Trucking service shown herein is Direct via Carrier shown, except as noted. See pages 5 and 7 for full name, address and telephone number of Carriers.
◊ Terminal. ‡ Intra-State Service Only.
(T) Service involves transfer to a connecting carrier en route.
(R) Refrigerator service also available.

(FR 2473- p. 1831)

Broad Ripple:
Con. Fwd.
Cushman
Foster
Interstate Dis.
Transamerican(R)

Brook (Newton Co.):
Northwestern(T)

Brookfield:
Holland

Brooklyn:
Adkins(T)
Huber(T)

Brookston:
Northwestern

Brookville:
Adkins(T)
Foster(T)
Huber(T)
Security(T)

Brownsburg:
Adkins(T)
Foster(T)
Hayes(T)
Northwestern(T)

Brownstown:
Huber(T)
Security(T)

Browns Valley:
Hayes(T)
Northwestern(T)

Bryant:
O. I. M.(T)

Buck Creek:
Kain's

Buckeye:
O. I. M.(T)

Buffington:
Landon
Northwestern
Welsh Bros.

Bunker Hill:
Hayes
Northwestern(T)

Burdick:
Northwestern

Burlington:
Kain's
Northwestern(T)

Burnettsville:
Northwestern(T)

Burns City:
Hayes(T)

Burrows:
Kain's

Busseron:
Hayes

Butler:
Days
Norwalk
Security(T)

Calumet:
Krema

Cambria:
Northwestern(T)

Cambridge City:
Hayes(T)
Huber(T)
Keeshin

Camden:
Northwestern(T)

Camp Atterbury:
Foster
Security(T)
Silver Fleet
Terminal Tr.(T)

Campbellsburg:
Security(T)

Cannelburg:
Hayes(T)
Yellow Tran.

Cannelton:
Huber(T)

Carlisle:
Hayes

Carmel:
Hayes(T)
Security(T)
Terminal Tr.(T)

Carroll:
Northwestern(T)

Carrollton:
Foster
Northwestern(T)

Cartersburg:
Northwestern(T)

Carthage:
Security(T)

Cased Ordnance Depot:
Norwalk
O. I. M.(T)
Security

Cassville:
Hayes

Cedarville:
Norwalk
O. I. M.(T)

Cementville:
Huber
Silver Fleet

Centerville:
Hayes(T)
Huber(T)

Chalmers:
Northwestern

Chambersburg:
Hayes(T)
Huber(T)
Yellow Tran.

Charlestown:
Adkins(T)
Foster(T)
Northwestern(T)
Security(T)
Silver Fleet

Charlottesville:
Hayes(T)

Cherry Grove:
Hayes
Northwestern(T)

Chester:
O. I. M.(T)

Chesterfield:
Hayes
Keeshin

Chesterton:
Northwestern

Chili:
Hayes

Churubusco:
Days
F. & S.
Hayes(T)

Cicero:
Hayes(T)
Security(T)

Clare:
Silver Fleet

Clarks (Starke Co.):
Northwestern

Clarks Hill:
Northwestern(T)

Clark Station:
Welsh Bros.

Clarksville (Clark Co.):
Foster
Holland◊

Clay City:
Security(T)

Claypool:
Hayes

Claysburg:
Foster
Northwestern(T)

Clayton:
Adkins(T)
Northwestern(T)
Security(T)

Clermont:
Hayes(T)
Northwestern(T)
Transamerican(R)

Cleveland:
Hayes(T)

Clinton:
Hayes

Clinton Falls:
Northwestern(T)

Cloverland:
Hayes
Northwestern(T)

Clymers:
Kain's

Costesville:
Security(T)

Coburg:
Northwestern

Cochran:
Huber(T)

Coesse:
Security(T)

Colfax:
Hayes
Northwestern(T)

Collamer:
O. I. M.(T)

Collegeville:
Northwestern(T)

Columbia City:
Keeshin
Northwestern(T)
Security

Columbus:
Adkins(T)
Foster
Huber(R)
Interstate Dis.(T)
Northwestern(T)
Security(T)
Silver Fleet◊
Terminal Tr.(T)
Transamerican

Connersville:
Adkins(T)
Foster
Huber(T)
Keeshin
Security(T)
Silver Fleet(T)
Terminal Tr.(T)

Converse:
Hayes
Kain's
Northwestern(T)

Corunna:
Days
Norwalk
Security(T)

Corydon:
Security(T)
Silver Fleet(T)

Covington:
Hayes
Northwestern(T)

Craigville:
O. I. M.(T)

Crane:
Hayes(T)
Transamerican

Crawfordsville:
Adkins(T)
Decatur
Hall(T)
Hayes
Northwestern(T)
Terminal Tr.(T)

Crisman:
Northwestern

Crocker:
Northwestern

Crooked Lake:
Security(T)

Crothersville:
Hayes(T)
Huber(T)
Northwestern(T)
Silver Fleet

Crown Point:
Northwestern

Crystal:
Huber(T)

Culver:
Kain's

Cumberland:
Adkins(T)
Hayes(T)

Cutler:
Northwestern(T)

Cypress:
Hayes(T)

Dale:
Huber(T)

Daleville:
Hayes

Dana:
Hayes

Danville:
Adkins(T)
Hayes(T)
Northwestern(T)
Security(T)

Dayton:
Northwestern(T)

Decatur:
Hinchcliff◊
Keeshin
Motor Exp.◊
O. I. M.
Security

Decker:
Hayes

Deep River:
Northwestern

Deer Creek:
Northwestern(T)

Deerfield:
O. I. M.(T)

Delphi:
Hayes
Kain's
Northwestern(T)

Diggers:
Security(T)

Dillon:
Northwestern

Dillsboro:
Huber(T)
Northwestern(T)
Security(T)

Donaldson:
Kain's
Security

Door Village:
Northwestern

Dover (Boone Co.):
Northwestern(T)

Dresser Power Plant:
Hayes

Dublin:
Hayes(T)

Dubois:
Huber(T)

Dune Acres:
Northwestern

Dunes State Park:
Northwestern

Dunlap:
Days
F. & S.
Hayes
Norwalk

Dunreith:
Hayes(T)
Keeshin

Durham (La Porte Co.):
Northwestern

Dyer:
Northwestern
Security
Welsh Bros.

Earlham:
Hayes

Earl Park:
Northwestern(T)

EAST CHICAGO:
Active Motor
Catania Bros.
Hayes
Keeshin
Krema
Landon
Lightning
Meyers
North Shore
Northwestern
Norwalk
Pennover
Rock Island
Scheffler
Scherer
Webber
Welsh Bros.

East Gary:
Landon
Norwalk
Welsh Bros.

East Germantown:
Hayes(T)

East Glen:
Hayes

East Mt. Carmel:
Hayes

East Rockville:
Hayes

Eaton:
Northwestern(T)

Edgewood:
Foster

Edinburg:
Foster
Huber(T)
Northwestern(T)
Security(T)
Silver Fleet
Terminal Tr.(T)

Edna Mills:
Northwestern(T)

Effner:
Northwestern(T)

ELKHART:
Days◊◊
F. & S.◊
Hayes
Keeshin
McNamara(R)
Motor Exp.
Northwestern
Norwalk◊
Transamerican

Ellettsville:
Silver Fleet(T)

Ellis:
Northwestern(T)

Elmdale:
Northwestern(T)

Elnora:
Hayes(T)

Elrod:
Huber(T)

Elston:
Northwestern(T)

Elwood:
Foster(T)
Kain's
Motor Exp.◊
Northwestern(T)
Security(T)

Eminence:
Northwestern(T)

Emison:
Hayes

Erskine:
Hayes(T)

Etna Green:
Hayes
Security

EVANSVILLE:
Hayes◊
Terminal Tr.(T)
Yellow Tran.◊

Fairland:
Holland

Fairmount:
Hayes
Northwestern(T)

Farmersburg:
Hayes

Farmersville:
Hayes

Ferguson:
O. I. M.

Finly:
Foster

Fish Lake:
Northwestern

Five Points:
Silver Fleet(T)

Flackville:
Huber(R)
Northwestern(T)

Flint Lake:
Northwestern

Flora:
Northwestern(T)

Floyds Knobs:
Hayes(T)
Yellow Tran.

Foreman:
Northwestern(T)

Forest (Clinton Co.):
Northwestern(T)

Ft. Benj. Harrison:
Decatur
Foster
Hayes
Interstate Dis.
Keeshin
Motor Exp.
Security
Silver Fleet
Terminal Tr.(T)
Transamerican(R)

Fortville:
Foster(T)
Hayes
Huber(T)
Motor Exp.
Security(T)

FT. WAYNE:
Days◊
F. & S.◊
Hayes◊
Kain's◊
Keeshin◊
Motor Exp.◊
Northwestern(T)
Norwalk◊
O. I. M.◊◊
Security◊◊
Standard◊(R)
Transamerican◊

Fountaintown:
Foster

Fowler:
Northwestern(T)

Francesville:
Northwestern

Frankfort:
Hayes
Motor Exp.◊
Northwestern(T)

Franklin:
Foster
Hayes(T)
Huber(R)
Northwestern(T)
Security(T)
Silver Fleet
Terminal Tr.(T)
Transamerican

Fredericksburg:
Hayes(T)
Huber(T)
Yellow Tran.

Freelandville:
Security(T)

Fremont:
Security(T)

French:
Huber(T)

French Lick:
Hayes(T)
Huber(T)
Security(T)
Silver Fleet(T)
Terminal Tr.(T)

Fritchton:
Hayes

Fulton:
Kain's
Northwestern(T)

Trucking service shown herein is Direct via Carrier shown, except as noted. See pages 5 and 7 for full name, address and telephone number of Carriers.
◊Terminal. ◊◊Home Office.
(T) Service involves transfer to a connecting carrier en route.
(R) Refrigerator service also available.

Furnessville:
Northwestern
Gale:
Hayes(T)
Galena:
Hayes(T)
Huber(T)
Garrett:
Days
Keeshin
Norwalk
GARY:
Active Motor
Burlington
Catania Bros.
Hayes
Keeshin◆
Krema
Landon
Lightning
Meinke
Meyers
North Shore
Northwestern
Norwalk
Pennoyer
Rock Island
Scheffler
Scherer
Webber
Welsh Bros.
Gas City:
Hayes
Kain's
Northwestern(T)
Gaston:
Northwestern(T)
Geetingsville:
Northwestern(T)
Gem:
Hayes(T)
Geneva:
Motor Exp.
O. I. M.(T)
Georgetown:
Hayes(T)
Gibson:
Landon
Northwestern
Welsh Bros.
Gilead:
Hayes
Glenn (Vigo Co.):
Northwestern(T)
Glenwood:
Foster
Hayes
Goldsmith:
Northwestern(T)
Goodland:
Northwestern(T)
Goshen:
Days◆
F. & S.◆
Hayes
Keeshin
Norwalk◆
Grabill:
O. I. M.(T)
Security(T)
Grasselli:
Landon
Northwestern
Norwalk
Pennoyer
Welsh Bros.
Greencastle:
Adkins(T)
Silver Fleet(T)
Terminal Tr.(T)
Greenfield:
Foster(T)
Hayes(T)
Green Oak:
Hayes
Greensburg:
Adkins(T)
Foster(T)
Hayes
Holland
Huber(T)
Interstate Dis.
Security(T)
Silver Fleet(T)
Terminal Tr.(T)
Greentown:
Hayes
Northwestern(T)
Greenville (Floyd Co.):
Hayes(T)
Huber(T)
Yellow Tran.
Greenwood (Johnson Co.):
Adkins(T)
Foster
Huber(T)
Northwestern(T)
Security(T)
Silver Fleet
Terminal Tr.(T)
Transamerican
Griffith:
Hayes
Landon
Northwestern
Welsh Bros.
Groveland:
Hayes(T)
Northwestern(T)
Gwynneville:
Foster
Hagerstown:
Foster(T)
Huber(T)
Silver Fleet(T)
Terminal Tr.(T)
Hall (Morgan Co.):
Northwestern(T)
Hamburg:
Silver Fleet
Hamilton:
Days
Security(T)
Hamlet:
Hayes
Kain's
HAMMOND:
Active Motor
Catania Bros.
Hayes
Keeshin◆
Krema
Landon
Lightning
Meyers
North Shore
Northwestern◆
Norwalk◆
Pennoyer
Rock Island
Scheffler
Scherer
Webber
Welsh Bros.◆◆
Hanna:
Hayes
Kain's
Northwestern
Hardinsburg (Washington Co.):
Huber(T)
Yellow Tran.
Harlan:
O. I. M.(T)
Security(T)
Harmony:
Hayes
Northwestern(T)
Hartford City:
Hayes
Kain's◆
Keeshin
Motor Exp.
Northwestern(T)
Security(T)
Hartman:
Hayes
Hartsdale:
Northwestern
Haskells:
Northwestern
Hatfield:
Hayes(T)
Haubstadt:
Hayes(T)
Haysville:
Huber(T)
Hazelwood:
Northwestern(T)
Helmer:
Days
Security(T)
Henryville:
Huber(T)
Silver Fleet
Hesston:
Northwestern
Hessville:
Landon
Northwestern
Welsh Bros.
Highland:
Landon
Northwestern
Norwalk
Welsh Bros.
Hillham:
Huber(T)
Hillisburg:
Northwestern(T)
Hillsboro:
Hayes
Northwestern(T)
Hillsdale:
Hayes(T)
Hoagland:
O. I. M.(T)
Security(T)
Hobart:
Northwestern
Welsh Bros.
Hollandsburg:
Hayes(T)
Holy Cross:
Northwestern
Howe:
O. I. M.
Security(T)
Howell:
Hayes
Hudson:
Days
Security(T)
Hudson Lake:
Northwestern
Huntertown:
Norwalk
O. I. M.
Security(T)
Huntingburg:
Adkins(T)
Huber(T)
Silver Fleet(T)
Huntington:
Hayes
Kain's◆
Keeshin
Northwestern(T)
O. I. M.(T)
Security(T)
Huntsville:
Hayes
Idaville:
Northwestern(T)
Indiana Harbor:
Burlington
Hayes
Krema
Landon
Meyers
Northwestern
Norwalk
Pennoyer
Rock Island
Welsh Bros.
INDIANAPOLIS:
Adkins◆◆
Con. Fwd.◆
Cushman◆
Decatur◆
Foster◆◆(R)
Haeckl's Exp.◆
Hull◆
Hayes◆
Hinchcliff◆
Holland◆
Huber◆(R)
Interstate Dis.◆◆(R)
Keeshin◆
Mid-States◆
Motor Exp.◆◆
Northwestern(T)
Security◆
Silver Fleet◆
Standard◆(R)
Suburban◆
Terminal Tr.◆◆
Transamerican◆(R)
Indianapolis State Sanitorium:
Motor Exp.
Ingalls:
Hayes
Inwoods:
Security
Irvington:
Con. Fwd.
Cushman
Decatur
Foster
Interstate Dis.
Transamerican(R)
Jamestown (Boone Co.):
Hayes(T)
Northwestern(T)
Jasper:
Huber(T)
Silver Fleet(T)
Terminal Tr.(T)
Jefferson:
Northwestern(T)
Jeffersonville:
Adkins(T)
Foster
Hayes
Holland◆
Huber(R)
Northwestern(T)
Security(T)
Silver Fleet
Standard(R)
Terminal Tr.(T)
Transamerican(R)
Jonesboro:
Hayes
Kain's
Northwestern(T)
Security(T)
Jonesville:
Huber(T)
Silver Fleet
Julietta:
Foster
Junction:
Hayes
Kankakee:
Northwestern(T)
Kasson:
Hayes
Kempton:
Northwestern(T)
Kendallville:
Days
Norwalk◆
O. I. M.
Security(T)
Kenneth:
Northwestern(T)
Kentland:
Northwestern(T)
Kilmore:
Northwestern(T)
Kimmell:
Days
F. & S.
Kingsbury:
Keeshin
Northwestern
Norwalk
Kingsbury Ordnance Plant:
Northwestern
Knightstown:
Hayes(T)
Huber(T)
Silver Fleet(T)
Knightsville:
Hayes
Northwestern(T)
Knox:
Hayes
Kain's
Northwestern(T)
KOKOMO:
Haeckl's Exp.◆
Hayes
Hinchcliff◆
Kain's◆
Keeshin
Motor Exp.◆
Northwestern(T)
Kyle:
Huber(T)
LaCrosse:
Northwestern
LA FAYETTE:
Hayes◆
Kain's◆
Motor Exp.◆
Northwestern
LaFontaine:
Northwestern(T)
La Grange:
Norwalk
O. I. M.
Security(T)
Lagro:
Hayes
Kain's
Northwestern(T)
Lake Cicott:
Northwestern(T)
Lake Gage:
Security(T)
Lake James:
Security(T)
Lakeville:
Hayes
Kain's
Northwestern(T)

WELSH BROS. MOTOR SERVICE

DAILY INSURED SERVICE TO

CHICAGO
PHONE
SAginaw
1-1520-1

ILLINOIS

Chicago
South Chicago
Chicago Heights
Lansing
Roseland
Kensington
Bernice
Hegewisch
Park Forest
Riverdale
South Holland
Dolton
Blue Island
Harvey
Oak Glen
Calumet City
Glenwood
Homewood
Pullman
Thornton

INDIANA

Highland
Gary
East Chicago
Indiana Harbor
Whiting
Hammond
Aetna
Clark's Station
Hessville
Munster
Robertsdale
Tolleston
Dyer
East Gary
Griffith
Hobart
Ross
Schererville
Burlington
Grossell
Miller
New Chicago
Roby

HAMMOND
PHONE
SHEFFIELD
2-3838-9

I. C. C. Docket No. 45716
Interstate Permit 840-A, 1 PSCI
Intrastate Permit 682-A, 2

Federal Permit to transport tax free and denatured Alcohol, Ind. C-16

MAIN OFFICE
920 150th ST.
HAMMOND, IND.

Trucking service shown herein is Direct via Carrier shown, except as noted
See pages 5 and 7 for full name, address and telephone number of Carriers.
◆Terminal. ◆◆Home Office.
(T)Service involves transfer to a connecting carrier en route.
(R)Refrigerator service also available.

Laotto:
Norwalk
O. I. M.
Security Ⓣ

Lapas:
Hayes
Kain's

LA PORTE:
F. & S.♦
Keeshin
Meinke♦♦
Northwestern♦
Norwalk♦

Lawrence:
Foster
Hayes
Terminal Tr.Ⓣ
Transamerican Ⓡ

Lawrenceburg:
Adkins Ⓣ
Decatur
Foster Ⓣ
Hayes Ⓣ
Huber Ⓣ
Interstate Dis
Northwestern Ⓣ
Security Ⓣ
Standard Ⓣ
Terminal Tr. Ⓣ
Transamerican

Lebanon:
Hayes
Interstate Dis.
Northwestern Ⓣ
Terminal Tr. Ⓣ

Leesburg:
Hayes

Lena:
Northwestern Ⓣ

Lenore:
Transamerican Ⓡ

Leo:
Norwalk
O. I. M. Ⓣ
Security Ⓣ

Lewisburg:
Hayes

Lewisville:
Hayes Ⓣ
Keeshin

Liberty:
Adkins Ⓣ
Foster

Liberty Center:
O. I. M. Ⓣ
Security Ⓣ

Liberty Mills:
O. I. M. Ⓣ

Libertyville:
Hayes

Ligonier:
Days
F. & S.
Norwalk

Linden:
Hayes

Linton:
Adkins Ⓣ
Hayes Ⓣ
Silver Fleet Ⓣ

Lisbon:
Norwalk

Liston:
Hayes Ⓣ
Northwestern Ⓣ

LOGANSPORT:
Haeckl's Exp.♦
Hayes
Kain's♦♦
Northwestern Ⓣ

London:
Holland

Long Beach:
Northwestern

Long Lake:
Northwestern

Loogootee:
Hayes Ⓣ
Yellow Tran.

Lydick:
Northwestern

Lyford:
Hayes Ⓣ
Northwestern Ⓣ

Lynn:
O. I. M. Ⓣ

McCool:
Northwestern

McCordsville:
Hayes

Mace:
Hayes Ⓣ
Northwestern Ⓣ

Macy:
Hayes

Madison:
Adkins Ⓣ
Foster Ⓣ
Huber Ⓣ
Security Ⓣ
Terminal Tr. Ⓣ

Magee:
Northwestern

Malden:
Northwestern

Malott Park:
Transamerican Ⓡ

Manchester:
Huber Ⓣ

Manhattan:
Hayes
Northwestern Ⓣ

Manson:
Northwestern Ⓣ

MARION (Grant Co.):
Hayes♦
Holland♦
Kain's♦
Keeshin
Motor Exp.♦
Northwestern Ⓣ
Security Ⓣ

Markle:
O. I. M. Ⓣ
Security Ⓣ

Marshall (Parke Co.):
Hayes Ⓣ
Northwestern Ⓣ

Marshfield:
Silver Fleet

Mars Hill:
Con. Fwd.
Cushman
Foster
Suburban
Transamerican Ⓡ

Martinsville:
Adkins Ⓣ
Huber Ⓣ
Security Ⓣ
Silver Fleet Ⓣ

Matthews:
Hayes

Maysville:
Hayes

Maywood:
Foster
Hayes

Mechanicsburg (Boone Co.):
Northwestern Ⓣ

Medaryville:
Northwestern

Medora:
Security Ⓣ

Mellott:
Hayes
Northwestern Ⓣ

Memphis:
Huber Ⓣ
Silver Fleet

Mentone:
Hayes

Merriam:
Days
F. & S.

Merrillville:
Northwestern

Metea:
Kain's
Northwestern Ⓣ

Mexico:
Hayes

MICHIGAN CITY:
F. & S.♦
Hayes
Keeshin♦
McNamara
Meinke♦
Northwestern♦♦
Norwalk♦

Michigantown:
Northwestern Ⓣ

Middlefork:
Northwestern Ⓣ

Mier:
Hayes

Milan:
Adkins Ⓣ
Huber Ⓣ

Milford:
Hayes

Mill Creek:
Northwestern

Miller:
Northwestern
Norwalk
Welsh Bros.

Millersburg:
Days

Milroy:
Adkins Ⓣ

Milton:
Keeshin.

Mishawaka:
Days
F. & S.
Hayes
Keeshin
Meinke♦
Merchants
Motor Exp.
Northwestern♦
Norwalk
Transamerican

Mitchell:
Adkins Ⓣ
Huber Ⓣ
Northwestern Ⓣ
Silver Fleet Ⓣ

Monitor:
Northwestern Ⓣ

Monon:
Northwestern

Monroe
Adams Co.
O. I. M. Ⓣ

Monroeville:
O. I. M. Ⓣ
Security Ⓣ

Monrovia:
Northwestern Ⓣ

Montdale:
Hayes Ⓣ
Northwestern

Montezuma:
Hayes

Montgomery:
Hayes Ⓣ
Yellow Tran.

Monticello:
Hayes
Northwestern Ⓣ

Montmorenci:
Northwestern Ⓣ

Montpelier:
Keeshin
Northwestern Ⓣ
O. I. M. Ⓣ
Security Ⓣ

Moorefield (Marion Co.):
Con. Fwd.
Cushman
Foster
Transamerican

Mooresville:
Adkins Ⓣ

Moran:
Northwestern Ⓣ

Morocco:
Northwestern Ⓣ

Morris:
Huber Ⓣ

Morristown:
Foster

Morton:
Hayes Ⓣ
Northwestern Ⓣ

Mt. Auburn (Wayne Co.):
Hayes Ⓣ

Mt. Ayr:
Northwestern Ⓣ

Mt. Perry:
Transamerican

Mt. Pleasant:
Hayes

Mt. Summit:
Hinchcliff
Keeshin

Mt. Vernon:
Hayes

Mulberry:
Hayes
Northwestern Ⓣ

MUNCIE:
Foster Ⓣ
Haeckl's Exp.♦
Hayes
Hinchcliff♦
Kain's♦
Keeshin♦
Motor Exp.♦
Northwestern Ⓣ
Security Ⓣ
Terminal Tr. Ⓣ
Transamerican

Munster:
Northwestern
Norwalk
Welsh Bros.

Murray:
O. I. M. Ⓣ

Napoleon:
Huber Ⓣ

Nappanee:
Hayes
Norwalk

Nashville:
Adkins Ⓣ

Natchez:
Hayes Ⓣ

Need:
Hayes

NEW ALBANY:
Adkins Ⓣ
Foster
Hayes
Holland♦
Huber Ⓣ
Northwestern Ⓣ
Security Ⓣ
Silver Fleet
Standard Ⓡ
Transamerican
Yellow Tran.

New Augusta:
Northwestern Ⓣ

New Bethel:
Adkins Ⓣ
Huber Ⓣ
Silver Fleet Ⓣ

Newburgh:
Hayes Ⓣ

New Carlisle:
F. & S.
Meinke
Northwestern
Norwalk

New Castle:
Adkins Ⓣ
Foster Ⓣ
Hayes Ⓣ
Hinchcliff♦
Huber Ⓣ
Keeshin
Security Ⓣ

New Chicago:
Northwestern
Welsh Bros.

New Goshen:
Hayes

New Harmony:
Hayes
Yellow Tran.

New Haven:
Keeshin
Norwalk
O. I. M. Ⓣ
Security

New Haven Ordnance:
O. I. M. Ⓣ

New London:
Northwestern Ⓣ

New Market:
Hayes Ⓣ
Northwestern Ⓣ

New Maysville:
Northwestern Ⓣ

New Palestine:
Foster

New Paris:
Hayes

New Point:
Huber Ⓣ

Newport:
Hayes Ⓣ

New Richmond:
Hayes
Northwestern Ⓣ

New Ross:
Hayes
Northwestern Ⓣ

New Salisbury:
Huber Ⓣ

Newtown:
Hayes
Northwestern Ⓣ

Newville:
Norwalk

New Waverly:
Hayes

KAIN'S Motor Service

CHICAGO TERMINAL . . . . Telephone ATlantic 5-7040
4125 SOUTH WALLACE STREET

Daily Overnight Service ⟶

General Office:
BATES STREET ROAD, LOGANSPORT, INDIANA
Telephone 3531

to the following Indiana points

Alexandria
Anderson
Argos
Burlington
Delphi
Elwood
Huntington
Kokomo
Marion
Logansport
South Bend
Fort Wayne
Hartford City
Muncie
Peru
Wabash
Rochester
Plymouth
North Judson

Trucking service shown herein is Direct via Carrier shown, except as noted. See pages 5 and 7 for full name, address and telephone number of Carriers.
♦Terminal. ♦♦Home Office.

ⓉService involves transfer to a connecting carrier en route.
ⓇRefrigerator service also available.

New Winchester:
Hayes
Northwestern(T)
Noblesville:
Adkins(T)
Foster
Huber(T)
Interstate Dis.(T)
Security(T)
Suburban
Terminal Tr.(T)
Normanda:
Northwestern(T)
North Grove:
Hayes
North Judson:
Kain's
North Manchester:
Hayes
Northwestern(T)
O. I. M.(T)
Security(T)
North Salem:
Northwestern(T)
North Terre Haute:
Decatur
Hayes
Motor Exp.
Northwestern(T)
North Vernon:
Adkins(T)
Northwestern(T)
Notre Dame:
Days
F. & S.
Keeshin
McNamara(R)
Northwestern
Norwalk
Numa:
Northwestern(T)
Oak:
Hayes
Northwestern(T)
Oaklandon:
Hayes
Security(T)
Oaktown:
Hayes
Oakley:
Northwestern(T)
Odell:
Hayes
Northwestern(T)
Ogden:
Hayes(T)
Ogden Dunes:
Northwestern

Oldenburg:
Huber(T)
Oolitic:
Northwestern(T)
Silver Fleet(T)
Orland:
Security(T)
Orleans:
Northwestern(T)
Silver Fleet(T)
Osceola:
Days
F. & S.
Hayes
Keeshin
Northwestern
Norwalk
Osgood:
Adkins(T)
Huber(T)
Security(T)
Ossian:
Keeshin
O. I. M.(T)
Security(T)
Otis:
Northwestern
Owasco:
Northwestern(T)
Oxford:
Northwestern(T)
Palmyra:
Hayes(T)
Huber(T)
Silver Fleet(T)
Yellow Tran.
Paoli:
Hayes(T)
Huber(T)
Northwestern(T)
Silver Fleet(T)
Yellow Tran.
Patoka:
Hayes
Yellow Tran.
Patton (Carroll Co.):
Northwestern(T)
Paxton:
Hayes
Peabody:
O. I. M.(T)
Pecksburg:
Northwestern(T)
Penal Farm:
Hayes

Pendleton:
Hayes
Huber(T)
Motor Exp.
Security(T)
Pennville (Wayne Co.):
Hayes(T)
Perrysburg:
Hayes
Pershing (Wayne Co.):
Hayes(T)
Peru:
Haeckl's Exp.
Hayes
Hincheliff(◊)
Kain's(◊)
Northwestern(T)
Pettit:
Northwestern(T)
Philadelphia:
Hayes(T)
Pierceton:
Hayes(T)
Pike:
Northwestern(T)
Pinelake:
Northwestern
Pinhook:
Northwestern
Pinola:
Northwestern
Pittsboro:
Hayes(T)
Northwestern(T)
Pittsburg:
Northwestern(T)
Plainfield:
Hayes
Huber(T)
Northwestern(T)
Security(T)
Silver Fleet(T)
Plainville:
Hayes(T)
Pleasant Gardens:
Hayes
Northwestern(T)
Pleasant Lake:
Security(T)
Pleasant Mills:
O. I. M.(T)
Pleasant View:
Huber(T)
Silver Fleet(T)
Plumtree:
O. I. M.(T)

Plymouth:
Hayes
Kain's
Motor Exp.(◊)
Northwestern(T)
Security
Poe:
O. I. M.(T)
Porter:
Northwestern
Portland:
Hayes(T)
Hincheliff(◊)
Motor Exp.(◊)
O. I. M.(T)
Security
Terminal Tr.(T)
Princeton:
Hayes
Terminal Tr.(T)
Yellow Tran.
Prospect:
Hayes(T)
Putnamville:
Hayes
Northwestern(T)
Security(T)
Radnor:
Northwestern(T)
Raintown:
Hayes(T)
Ray (Steuben Co.):
Security(T)
Raysville:
Hayes(T)
Reagan:
Northwestern(T)
Rego:
Hayes(T)
Yellow Tran.
Remington:
Northwestern(T)
Rensselaer:
Northwestern(T)
Reynolds:
Northwestern
RICHMOND:
Adkins(T)
Foster(T)
Hayes
Hincheliff(◊)
Huber(T)
Interstate Dis.(◊)(R)
Keeshin
Northwestern(T)
O. I. M.(T)
Terminal Tr.(T)
Richvalley:
Hayes
Kain's

Ridgeview:
Hayes
Ridgeville:
O. I. M.(T)
Security(T)
Rising Sun:
Huber(T)
Security(T)
Riverside (La Porte Co.):
Northwestern
Roann:
Hayes
Roanoke:
Hayes
Kain's
Northwestern(T)
O. I. M.(T)
Security(T)
Robertsdale:
Welsh Bros.
Rob Roy:
Northwestern(T)
Roby:
Landon
Meyers
North Shore
Northwestern
Norwalk
Pennover
Rock Island
Scheffler
Welsh Bros.
Rochester:
Hayes
Kain's
Northwestern(T)
Rockfield:
Kain's
Rockford:
Huber(T)
Silver Fleet
Rockville:
Hayes
Northwestern(T)
Rolling Prairie:
F. & S.
Meinke
Northwestern
Norwalk
Rome City:
O. I. M.
Security(T)
Romney:
Hayes
Northwestern(T)

Roseland:
F. & S.
McNamara(R)
Northwestern
Norwalk
Ross:
Northwestern
Welsh Bros.
Rosston:
Northwestern(T)
Royal Center:
Hayes
Kain's
Northwestern(T)
Royalton:
Northwestern(T)
Rushville:
Adkins(T)
Foster
Huber(T)
Interstate Dis.
Security(T)
Silver Fleet(T)
Terminal Tr.(T)
Russellville:
Northwestern(T)
Russiaville:
Northwestern(T)
St. Joe:
Norwalk
O. I. M.(T)
Security(T)
St. Mary-of-the-Woods:
Hayes
St. Marys (St. Joseph Co.):
Northwestern
St. Omer:
Huber(T)
Silver Fleet(T)
St. Paul:
Holland
Salem:
Adkins(T)
Foster(T)
Huber(T)
Security(T)
Silver Fleet(T)
San Pierre:
Northwestern
Santa Fe:
Hayes
Schererville:
Northwestern
Welsh Bros.
Scottsburg:
Huber(R)
Northwestern(T)
Security(T)
Silver Fleet
Terminal Tr.(T)

Seafield:
Northwestern(T)
Sedalia:
Northwestern(T)
Sedan:
Days
Sedley:
Northwestern
Seelyville:
Hayes
Northwestern(T)
Sellersburg:
Huber(R)
Northwestern(T)
Silver Fleet
Servia:
O. I. M.(T)
Sevier:
Northwestern
Seymour:
Adkins(T)
Foster(T)
Hayes(T)
Huber(R)
Interstate Dis.(T)
Northwestern(T)
Norwalk(T)
Security(T)
Silver Fleet(◊)
Terminal Tr.(T)
Transamerican
Shadeland:
Hayes
Shannondale:
Northwestern(T)
Sharpsville:
Northwestern(T)
Shelburn:
Hayes
Shelbyville:
Adkins(T)
Foster(T)
Hayes(T)
Holland(◊)
Huber(T)
Interstate Dis.
Security(T)
Silver Fleet(T)
Terminal Tr.(T)
Shirkieville:
Hayes
Shoals:
Hayes(T)
Yellow Tran.
Silver Lake:
Hayes
Sleeth:
Northwestern(T)
Smartsburg:
Northwestern(T)

Do Not Guess--
SHIP VIA F. & S. TRANSIT CO. INC.

Established 1924

DAILY SERVICE

Chicago — Elkhart
South Bend — Goshen
Ft. Wayne — LaPorte

TERMINAL POINTS

CHICAGO
3333 S. Iron Street
Phone LAfayette 3-2355

SOUTH BEND, IND.
1020 S. Webster St.
Phone 7-3393

FT. WAYNE
616 W. Pearl Street
Phone Anthony 1274

ELKHART
Phone 2-0606

CALUMET DISTRICT
Hammond, Ind.
Welsh Bros. Motor Service
Phone Sheffield 2339

MICHIGAN CITY
Phone 3-3274

LA PORTE
Clay and Washington Sts.
Phone 3243

GOSHEN
Phone 434

☞ FOR ALL OTHER POINTS SERVED—SEE LISTING ☜

Trucking service shown herein is Direct via Carrier shown, except as noted. See pages 5 and 7 for full name, address and telephone number of Carriers. ◊Terminal. (T)Service involves transfer to a connecting carrier en route. (R)Refrigerator service also available.

(F.C. 2477 - p. 1835)

Smith:
Hayes
Smithson:
Northwestern
Soldiers Home:
Northwestern
Solitude:
Hayes
Somerset:
Kain's
SOUTH BEND:
Days◊
Decatur◊
F. & S.◊◊
Hayes◊
Kain's◊
Keeshin◊
McNamara◊T
Meinke◊
Merchants◊
Motor Exp.◊
Northwestern◊
Norwalk◊
Transamerican◊
South Milford:
Days
South Muncie:
Hayes
Southport:
Foster
Huber
Silver Fleet
Transamerican
South Whitley:
O. I. M.T
Security
Speed:
Huber
Silver Fleet
Speedway:
Adkins
Con. Fwd.
Cushman
Decatur
Foster
Haseki's Exp.
Hall
Hayes
Huber
Interstate Dis.
Keeshin
Motor Exp.
Security
Silver Fleet
Suburban
Terminal Tr.T
Transamerican
Speicherville:
Hayes
Spencer:
Adkins
Silver Fleet
Spencerville:
Norwalk
O. I. M.T
Security
Spriggsboro:
Northwestern
Springville (LaPorte Co.):
Northwestern
Star City:
Hayes
Kain's
Northwestern
Steam Corner:
Northwestern
Sterling:
Hayes
Northwestern
Stilesville:
Hayes
Northwestern
Stillwell:
Northwestern
Stockport:
Hayes
Stockwell:
Northwestern
Stones Crossing:
Silver Fleet
Stout Field Airport:
Foster
Keeshin
Strongham:
Hayes
Keeshin
Stroh:
Security
Sullivan:
Hayes
Summitville:
Hayes
Northwestern
Summan:
Huber
Swan:
Norwalk
Swanington:
Northwestern
Swayzee:
Hayes
Northwestern
Sweetser:
Hayes
Kain's
Northwestern
Swifts:
Northwestern
Syracuse:
Norwalk
Taylorsville:
Foster
Tell City:
Silver Fleet
Terminal Tr.T
Templeton:
Northwestern
Terre Coupee:
Northwestern
TERRE HAUTE:
Decatur◊
Hall◊
Hayes◊
Motor Exp.◊
Northwestern
Terminal Tr.T
Tetersburg:
Northwestern
Thornhope:
Hayes
Thorntown:
Northwestern
Tipton:
Kain's
Motor Exp.
Security
Tolleston:
Welsh Bros.
Tracy:
Northwestern
Traders Point:
Northwestern
Tremont:
Northwestern
Turkey Run:
Northwestern
Underwood:
Huber
Silver Fleet
Union Center:
Northwestern
Union City:
Terminal Tr.T
Uniondale:
Security
Union Mills:
Northwestern
Uniontown:
Huber
Silver Fleet
Upland:
Hayes
Kain's
Northwestern
Urbana:
Hayes
Valparaiso:
Hayes
Meinke
Northwestern◊
Van Buren:
O. I. M.T
Security
Vedersburg:
Hayes
Northwestern
Versailles:
Huber
Northwestern
Vevay:
Security
VINCENNES:
Hayes◊
Hinchcliff◊
Silver Fleet
Terminal Tr.T
Yellow Tran.◊
Vivalia:
Northwestern
Wabash:
Hayes
Kain's◊
Northwestern
Wadesville:
Hayes
Yellow Tran.
Wakarusa:
Hayes
Norwalk
Waldron:
Holland
Wakeshore:
Huber
Silver Fleet
Wanatah:
Hayes
Kain's
Northwestern
Warren:
Security
Warsaw:
Hayes
Hinchcliff◊
Keeshin
Security◊
Washington:
Adkins
Hayes
Silver Fleet
Terminal Tr.T
Yellow Tran.
Waterford:
Northwestern
Waterford Mills:
Hayes
Waterloo:
Days
Norwalk
Security
Watson:
Adkins
Silver Fleet
Waugh:
Northwestern
Waveland:
Hayes
Northwestern
Wawaka:
Days
Norwalk
Security
Waynedale:
Keeshin
O. I. M.T
Security
Waynesville:
Huber
Silver Fleet
Waynetown:
Hayes
Northwestern
Wellsboro:
Northwestern
West Baden:
Hayes
Huber
Silver Fleet
Yellow Tran.
Westfield:
Hayes
West Lafayette:
Hayes
Motor Exp.
Northwestern
West Lebanon:
Northwestern
West Middleton:
Northwestern
West Point:
Hayes
Northwestern
West Terre Haute:
Decatur
Hayes
Motor Exp.
Westville:
Northwestern
Wheatland:
Hayes
Yellow Tran.
Wheeler:
Hayes
Northwestern
Wheeling (Delaware Co.):
Hayes
Whiteland:
Foster
Huber
Silver Fleet
Whitestown:
Northwestern
Whitesville:
Northwestern
Whiting:
Active Motor
Catania Bros.
Hayes
Keeshin
Krema
Landon
Lightning
Meyers
North Shore
Northwestern
Norwalk
Passover
Rock Island
Scheffler
Scherer
Webber
Welsh Bros.
Wilders:
Northwestern
Williamsport (Warren Co.):
Northwestern
Winamac:
Hayes
Kain's
Northwestern
Winchester:
Adkins
O. I. M.T
Windfall:
Hayer
Northwestern
Wingate:
Hayes
Northwestern
Wolcott:
Northwestern
Wolcottville:
O. I. M.
Security
Wolflake (Noble Co.):
Days
F. & S.
O. I. M.T
Woodburn:
O. I. M.
Security
Woodbury:
Hayes
Woodville:
Northwestern
Wright Corners:
Huber
Wyatt:
Norwalk
Yankeetown:
Hayes
Yeoman:
Northwestern
Yoder:
Security
Yorktown:
Hayes
Young:
Hayes
Youngstown:
Hayes
Zanesville:
O. I. M.
Security
Zionsville:
Foster
Northwestern

IOWA (Ackley to Austin)

Ackley:
Brady Tfr.
Union
Adair:
McCoy
Rock Island
Watson
Adel:
McCoy
Merchants
Watson
Adelphi:
Watson
Afton:
Burlington
Agency:
Burlington
Ainsworth:
Merchants
Rock Island
Akron:
Union
Aladdin:
Keeshin
McCoy
Merchants
Takin
Albert City:
Brady Tfr.
Albia:
Burlington
Albumett:
H. & W. Motor
Alcoa Plant:
Brady Tfr.
Interstate Dis.
Keeshin
Peoria
Aldon:
Brady Tfr.
McCoy
Alexander:
McCoy
Takin
Algona:
Brady Tfr.◊
McCoy
Takin
Union
Watson
Allendorf:
Brady Tfr.
Wilson
Allerton:
Rock Island
Allison:
McCoy
Alta:
Brady Tfr.
Union
Watson
Alta Vista:
McCoy
Alton:
Union
Wilson
Altoona:
Rock Island
Watson
Amana:
Merchants
Takin
AMES:
Brady Tfr.◊
McCoy
Rock Island◊
Watson
Anamosa:
H. & W. Motor◊
Anita:
Rock Island
Watson
Ankeny:
Brady Tfr.
Keeshin
McCoy
Merchants
Rock Island
Watson
Anthon:
Union
Arlington:
Takin
Armstrong:
Brady Tfr.
Arnolds Park:
Brady Tfr.
Union
Watson
Wilson
Arnolds Park:
Brady Tfr.
Union
Watson
Wilson
Arthur:
Brady T
Ashton:
Brady Tfr.
Wilson
Ashtonville:
Brady Tfr.
Atalissa:
Rock Island
Athelia:
On-Time
Rock Island◊
Watson
Attica:
Burlington
Auburn:
McCoy
Union
Audubon:
McCoy
Merchants
On-Time
Rock Island
Watson
Aurelia:
Brady Tfr
Union
Watson
Austin:
Wilson

Trucking service shown herein is Direct via Carrier shown, except as noted. See pages 5 and 7 for full name, address and telephone number of Carriers.
◊Terminal. ◊◊Home Office.
TService involves transfer to a connecting carrier en route.
RRefrigerator service also available.

85 DIRECT ROUTES TO YOUR IOWA CUSTOMERS

WITH

The Real McCOY TRUCK LINES

PHONE: SEeley 3-3101

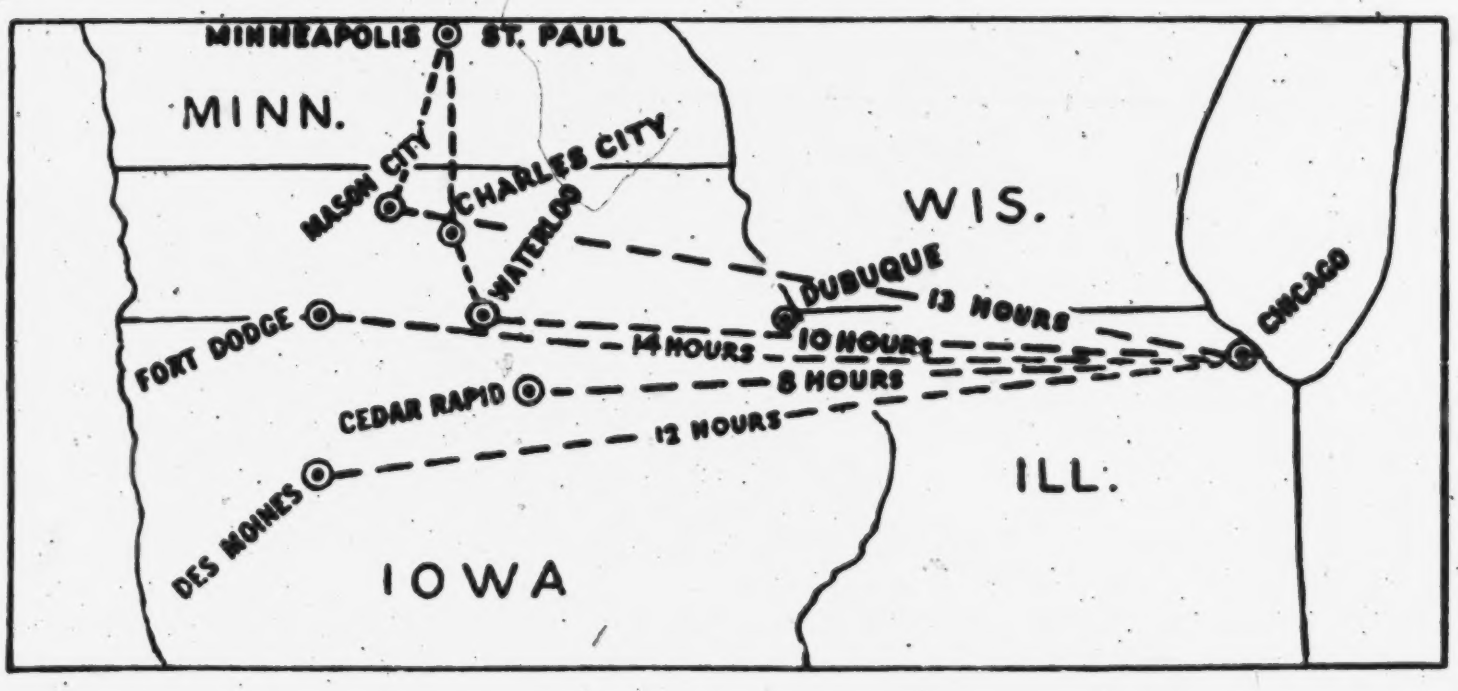
ADDRESS: 2131 South THROOP ST.

McCOY'S DIRECT ROUTE SHIPPING is the answer to your shipping needs with FAST SERVICE - A MINIMUM OF HANDLING-NO TRANSFERS.

McCOY'S DIRECT ROUTE SHIPPING cuts your routing problems to a minimum. You are served with the most modern and up-to-date delivery and over-the-road tandem equipment — 32-foot Dual Axle Trailer — 34,000-lb. capacity.

There is refrigeration and heater service with special supervision on the handling of all freight.

C.O.D. shipments are accepted with immediate payment from destination point.



Austinville:
Brady Tfr.

Avoca:
McCoy(T)
Merchants(T)
On-Time(T)
Rock Island

Badger:
Brady Tfr.

Balfour:
Burlington
Merchants(T)

Bancroft:
Brady Tfr.
Takin(T)

Bartlett:
Merchants(T)
Watson

Batavia:
Burlington

Battle Creek:
Brady Tfr.

Bayard:
McCoy(T)

Beacon:
Rock Island

Beaconsfield:
Merchants(T)

Beaver:
McCoy(T)

Beckwith:
Burlington

Bedford:
Burlington
Watson(R)

Belmond:
McCoy(T)
Takin(T)

Beloit:
Wilson(R)

Benson:
Brady Tfr.

Benton:
Merchants(T)

Bernhart:
Burlington

Berwick:
Watson

Bettendorf:
Brady Tfr.
Burlington
H. & W. Motor
Hayes
Interstate Dis.
Keeshin
Merchants
Peoria
Pioneer(R)
Rock Island

Bevington:
Merchants(T)

Bingham:
Burlington

Blairsburg:
Brady Tfr.

Blanchard:
Watson

Blencoe:
Merchants(T)

Blockton:
Merchants(T)

Bloomfield:
Burlington

Bode:
Brady Tfr.

Bondurant:
Watson

BOONE:
McCoy(T)
Watson(T)

Booneville:
Rock Island

Boxholm:
Brady Tfr

Boyden:
Brady Tfr
Wilson(R)

Braddyville:
Watson

Bradford:
Rock Island

Brayton:
Merchants(T)
Rock Island

Breda:
Brady Tfr.

Bridgeport:
Burlington

Bridgewater:
Merchants(T)

Brighton:
Rock Island

Bristow:
McCoy(T)

Britt:
McCoy(T)
Takin(T)

Brooklyn:
Rock Island

Brooks:
Burlington

Bryant
(Clinton Co.):
H. & W. Motor

Bryantsburg:
Takin(T)

Buckeye:
Rock Island

Buckingham:
McCoy

Buffalo:
Rock Island

Buffalo Center:
Brady Tfr.
McCoy(T)
Takin(T)

BURLINGTON:
Burlington◊(R)

Burnside:
Brady Tfr.

Burrcak:
H. & W. Motor
Merchants(T)
Takin(T)

Burt:
Brady Tfr.

Bussey:
Burlington

Calamus:
H. & W. Motor

Calhoun:
Merchants(T)

Calliope:
Wilson(R)

Calmar:
H. & W. Motor◊
Takin(T)

Calumet:
Union(T)
Watson

Camanche:
H. & W. Motor
Rock Island

Cambridge:
McCoy(T)
Merchants(T)
Rock Island

Camp Dodge:
Watson

Carbon (Adams Co.):
Burlington

Carlisle:
Merchants(T)

Carmel:
Union(T)
Wilson(R)

Carnarvon:
Brady Tfr.

Carnes:
Union(T)

Carney:
Merchants(T)

Carpenter:
Takin(T)

Carroll:
McCoy(T)
Union(T)
Watson

Carson:
Merchants(T)
Rock Island

Cartersville:
Takin(T)

Cascade:
H. & W. Motor

Casey:
Rock Island
Watson

Castalia:
H. & W. Motor
Takin(T)

Castle Hill:
Merchants(T)

Cedar:
Burlington

Cedar Falls:
Brady Tfr.
H. & W. Motor
Keeshin
McCoy(R)
Merchants
Takin(R)

Cedar Heights:
Merchants(T)
Takin(R)

CEDAR RAPIDS:
Brady Tfr.
H. & W. Motor◊
Keeshin◊
McCoy◊(R)
Merchants◊
Rock Island◊◊
Takin◊(R)
Union◊

Center Grove:
H. & W. Motor

Center Point:
Merchants(T)

Centerville:
Burlington◊
Rock Island

Central City:
H. & W. Motor
Merchants(T)

Centralia:
H. & W. Motor

Chapin:
Rock Island
Takin(T)

Charlton:
Burlington◊

Charles City:
McCoy◊(R)
Merchants(T)
Takin◊(R)

Charlotte:
H. & W. Motor

Charter Oak:
Brady Tfr.

Chelsea:
Merchants(T)

Cherokee:
Brady Tfr.◊
Union(T)
Watson

Clarence:
H. & W. Motor

Clarinda:
Burlington◊
Merchants(T)
On-Time(T)
Watson◊

Clarion:
McCoy
Watson(T)

Clarksville:
McCoy

Clearfield:
Merchants(T)

Clear Lake:
McCoy(T)
Takin(T)
Watson(T)

Clear Lake Jct.:
Takin(R)

Cleghorn:
Brady Tfr.
Union(T)
Watson

Clermont:
Takin(R)

Climbing Hill:
Union(T)

CLINTON:
H. & W. Motor◊
Hayes(T)
Keeshin◊
Rock Island◊

Clive:
Merchants(T)
Watson

Cloverdale:
Brady Tfr.
Wilson(R)

Clover Hills:
Watson

Coburg:
Burlington

Coggon:
H. & W. Motor

Coin:
Watson

Colfax:
Rock Island
Watson

College Springs:
Watson

Collins:
Merchants(T)

Colo:
Merchants(T)
Watson

Columbia:
Merchants(T)

Columbus Jct.:
Rock Island

Commerce:
Rock Island

Conover:
H. & W. Motor

Conrad:
Merchants(T)

Conroy:
Merchants(T)

Coralville:
Rock Island

Corley:
Merchants(T)
Rock Island

Corning:
Burlington◊
Watson

Correctionville:
Union(T)

Corwith:
Takin(T)

Corydon:
Burlington

Cotter:
Rock Island

Coulter:
McCoy
Takin(T)

COUNCIL BLUFFS:
Brady Tfr.
Burlington
Independent Tr.◊(R)
McCoy(T)
Merchants
On-Time
Rock Island
Transamerican◊
(Cont. next column)

COUNCIL BLUFFS—Cont.:
Union◊
Watson
Wilson(R)

County Line:
Rock Island

Craig:
Union(T)

Crandic:
Keeshin
McCoy
Merchants
Takin(R)

Crescent:
Brady Tfr.
Merchants(T)
On-Time(T)

Cresco:
H. & W. Motor
Merchants(T)
Takin(T)

Creston:
Burlington◊(R)
Watson◊(R)

Crystal Lake:
Takin(T)

Cumberland:
Merchants(T)

Cumming:
Watson

Cushing:
Union(T)

Dakota City:
Brady Tfr.
McCoy(T)
Union(T)

Dallas:
Merchants(T)

Dallas Center:
McCoy(T)
Merchants(T)

Danbury:
Brady Tfr.

Danville:
Burlington

DAVENPORT:
Brady Tfr.
Burlington(R)
H. & W. Motor◊
Hayes
Interstate Dis.(R)
Keeshin
Merchants
Peoria
Pioneer(R)
Rock Island◊

Davis City:
Burlington
Merchants(T)
Watson

Davis Corners:
Merchants(T)
Takin(T)

Dayton:
Brady Tfr.

Decorah:
Gateway
H. & W. Motor
Merchants(T)
Takin(T)

John Deere Des Moines Works:
Rock Island
Watson

John Deere Dubuque Tractor Works:
Chi-Dubuque

Defiance:
Merchants(T)

Delaware:
H. & W. Motor

Delmar:
H. & W. Motor

Deloit:
Brady Tfr.

Delta:
Merchants(T)

Denison:
Brady Tfr.◊
On-Time(T)
Union
Watson

Denver:
McCoy(T)
Merchants(T)
Takin(T)

De Soto:
Rock Island

DES MOINES:
Brady Tfr.◊
Burlington
H. & W. Motor
Keeshin◊
McCoy◊(R)
Merchants◊
Rock Island◊◊
Watson◊(R)

Des Moines Ordnance Plant:
Burlington
Merchants
Rock Island
Watson

DeWitt:
H. & W. Motor◊

Dexter:
McCoy(T)
Merchants(T)
Rock Island
Watson

Diagonal:
Merchants(T)

Diamond:
Burlington

Dickens:
Brady Tfr.

Dike:
Merchants(T)
Takin(T)

Doon:
Union(T)

Dougherty:
Takin(T)

Dow City:
Brady Tfr.
Merchants(T)

Dows:
Takin(T)

Drakesville:
Rock Island

Trucking service shown herein is Direct via Carrier shown, except as noted. (T)Service involves transfer to a connecting carrier en route.
See pages 5 and 7 for full name, address and telephone number of Carriers. (R)Refrigerator service also available.
◊Terminal. ◊◊Home Office.

DUBUQUE:
Chi-Dubuque◆◆Ⓡ
Gateway◆
H. & W. Motor◆◆Ⓡ
Dumont:
McCoy
Takin Ⓣ
Duncan:
Takin Ⓣ
Duncombe:
Brady Tfr.
Dunlap:
Brady Tfr.
Durango:
H. & W. Motor
Durant:
Rock Island
Dyersville:
H. & W. Motor
Dysart:
McCoy
Eagle Grove:
McCoy
Watson Ⓣ
Earlham:
Merchants Ⓣ
Rock Island
Earlville:
H. & W. Motor
Early:
Brady Tfr.
McCoy Ⓣ
Union Ⓣ
East Amana:
Merchants Ⓣ
East Davenport:
Keeshin
Pioneer
East Pleasant Plain:
Rock Island
Eddyville:
Rock Island
Edgewood:
Takin Ⓣ
Elberon:
Merchants Ⓣ
Eldon:
Rock Island
Eldora:
Takin Ⓣ
Elgin:
McCoy Ⓣ
Takin Ⓣ
Elkhart:
Rock Island
Elk Horn:
McCoy Ⓣ
Merchants Ⓣ
Elliott:
Merchants Ⓣ
Ellston:
Merchants Ⓣ
Elma:
McCoy
Emerson:
Burlington
Merchants Ⓣ
On-Time Ⓣ
Watson
Emery:
Takin Ⓣ
Emmetsburg:
Brady Tfr.◆
Watson Ⓣ
Enterprise:
Rock Island
Watson
Epworth:
H. & W. Motor
Ericson:
McCoy Ⓣ
Essex:
Burlington
Merchants Ⓣ
On-Time Ⓣ
Watson
Estherville:
Brady Tfr.◆
Takin Ⓣ
Watson Ⓣ
Wilson Ⓡ
Evander:
Wilson Ⓡ
Everly:
Brady Tfr.
Wilson Ⓡ
Exira:
Merchants Ⓣ
Rock Island
Fairfax:
Merchants Ⓣ
Fairfield:
Burlington◆
Keeshin
Rock Island◆
Fairport:
Rock Island
Farley:
H. & W. Motor
Farragut:
Merchants Ⓣ
Watson
Fayette:
Takin Ⓣ
Fenton:
Brady Tfr.
Takin Ⓣ
Fern:
Merchants Ⓣ
Takin Ⓣ
Fernald:
Rock Island
Fertile:
Takin Ⓣ
Fillmore:
H. & W. Motor
Floyd:
McCoy
Merchants Ⓣ
Takin Ⓣ
Folletts:
Rock Island
Fonda:
Brady Tfr.
Fontanelle:
McCoy Ⓣ
Merchants Ⓣ
Forest City:
McCoy Ⓣ
Takin Ⓣ
Watson Ⓣ
Ft. Atkinson:
Takin Ⓣ
Ft. Des Moines:
Keeshin
McCoy◆Ⓡ
Merchants Ⓣ
Rock Island
Watson
FT. DODGE:
Brady Tfr.◆◆
McCoy◆Ⓡ
Union◆
FT. MADISON:
Burlington◆
Hayes
Fostoria:
Brady Tfr.
Watson
Wilson Ⓡ
Fredericksburg:
Merchants Ⓣ
Takin Ⓣ
Frederika:
Merchants Ⓣ
Takin Ⓣ
Fredonia:
Rock Island
Fremont:
Burlington
Froelich:
H. & W. Motor
Fruitland:
Rock Island
Fulton:
H. & W. Motor
Galt:
McCoy
Galva:
Union Ⓣ
Garden City:
Merchants Ⓣ
Rock Island
Garnavillo:
H. & W. Motor
Garner:
McCoy Ⓣ
Takin Ⓣ
Garrison:
McCoy
Gaza:
Brady Tfr.
Union Ⓣ
Wilson Ⓡ
Geneva:
Takin Ⓣ
George:
Brady Tfr.
Union Ⓣ
Georgetown:
Burlington
Germantown:
Union Ⓣ
Giard:
H. & W. Motor
Gilmore City:
Union Ⓣ
Givin:
Rock Island
Glendale:
Burlington
Glenwood:
Burlington
Merchants Ⓣ
On-Time Ⓣ
Watson
Glidden:
McCoy Ⓣ
Goldfield:
McCoy
Goodell:
Takin Ⓣ
Goose Lake:
H. & W. Motor
Gowrie:
Brady Tfr.
Graettinger:
Brady Tfr.
Grafton:
Takin Ⓣ
Grand Junction:
McCoy Ⓣ
Grand Mound:
H. & W. Motor
Grand River:
Merchants Ⓣ
Grant:
Watson
Grant City:
Brady Tfr.
Granville:
Union Ⓣ
Wilson Ⓡ
Gravity:
Burlington
Watson
Greene:
McCoy Ⓣ
Takin Ⓣ
Greenfield:
McCoy Ⓣ
Merchants Ⓣ
Greenville:
Union Ⓣ
Grimes:
McCoy Ⓣ
Merchants Ⓣ
Watson
Grinnell:
Rock Island◆
Griswold:
McCoy Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Rock Island
Grundy Center:
Merchants Ⓣ
Takin Ⓣ
Gruver:
Takin Ⓣ
Guthrie Center:
McCoy Ⓣ
Guttenberg:
H. & W. Motor
Hagerty:
Brady Tfr.
Hamburg:
Merchants Ⓣ
On-Time Ⓣ
Watson
Hamilton:
Burlington
Hamlin:
McCoy Ⓣ
Merchants Ⓣ
Rock Island
Hampton:
McCoy◆Ⓡ
Rock Island
Takin Ⓣ
Watson
Hancock:
Rock Island
Handytown:
Wilson Ⓡ
Hanlontown:
Takin Ⓣ
Hansell:
McCoy
Harcourt:
Brady Tfr.
Harlan:
McCoy Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Rock Island
Watson Ⓡ
Harris:
Brady Tfr.
Wilson Ⓡ
Hartford:
Merchants Ⓣ
Hartley:
Brady Tfr.
Union
Watson
Wilson Ⓡ
Hastings:
Burlington
On-Time Ⓣ
Hawarden:
Union Ⓣ
Watson Ⓣ
Wilson Ⓡ
Hawkeye:
Merchants Ⓣ
Takin Ⓣ
Henderson:
McCoy Ⓣ
High:
Takin Ⓣ
Highland Park:
Merchants
Highview:
Brady Tfr.
Hinton:
Brady Tfr.
Union Ⓣ
Watson
Holland:
Merchants Ⓣ
Takin Ⓣ
Holly Springs:
Brady Tfr.
Holmes:
McCoy
Holstein:
Union Ⓣ
Holy Cross:
H. & W. Motor
Homestead:
Rock Island
Takin Ⓣ
Honey Creek:
Brady Tfr.
Merchants Ⓣ
Hospers:
Union Ⓣ
Wilson Ⓡ
Hudson:
McCoy
Takin Ⓣ
Hull:
Union Ⓣ
Wilson Ⓡ
Humboldt:
Brady Tfr.
McCoy Ⓣ
Watson Ⓣ
Hurley:
Rock Island
Hurstville:
H. & W. Motor
Hutchins:
Takin Ⓣ
Hurley:
Brady Tfr.
Merchants Ⓣ
Ida Grove:
Brady Tfr.
Imogene:
Watson
Independence:
H. & W. Motor
McCoy◆
Takin Ⓣ
Indianola:
Burlington
McCoy Ⓣ
Merchants
Rock Island
Watson
Inwood:
Union Ⓣ
IOWA CITY:
McCoy◆Ⓡ
Rock Island◆
Iowa Falls:
Brady Tfr.◆
McCoy◆Ⓡ
Rock Island◆
Watson
Iowana:
Rock Island
Ireton:
Union Ⓣ
Irma:
Takin Ⓣ

Chicago-Dubuque Motor Transportation Company

DIRECT DEPENDABLE DAILY

Chicago Office and Terminal
1122 W. Harrison St.
Phone MOnroe 6-3005
Teletype No. CG 643

La Crosse Office and Terminal
P. O. Box 652
Phone 2-0053

General Office and Terminal
51-59 Main St., Dubuque, Iowa
Phone 3849
Teletype No. DB 94

ROCKFORD, ILL. • FREEPORT, ILL. • DUBUQUE, IOWA • LA CROSSE, WIS.

Trucking service shown herein is Direct via Carrier shown, except as noted. See pages 5 and 7 for full name, address and telephone number of Carriers.
◆Terminal. ◆◆Home Office.
Ⓣ Service involves transfer to a connecting carrier en route.
Ⓡ Refrigerator service also available.

(# 2481 - P 1839)

Irwin:
Merchants(T)
Ivy:
Watson(T)
Jacksonville:
Merchants(T)
James:
Brady Tfr.
Union(T)
Watson
Janesville:
McCoy
Takin(T)
Jefferson:
McCoy(T)
Watson(T)
Jesup:
H. & W. Motor
Takin(T)
Jewell:
Brady Tfr.
Johnston:
Merchants(T)
Watson
Joice:
Takin(T)
Jordan:
McCoy(T)
Julien:
H. & W. Motor
Kalona:
Rock Island
Kanawha:
McCoy(T)
Takin(T)
Kellerton:
Merchants(T)
Kellogg:
Keeshin
Rock Island
Kensett:
Rock Island
Takin(T)
Kenwood Park:
Merchants(T)
KEOKUK:
Burlington(◊)
Hayes
Key West:
H. & W. Motor
Kimballton:
McCoy(T)
Merchants(T)
Kingsley:
Union(T)
Kirkman:
Merchants(T)
Kirkville Station:
Rock Island
Kiron:
Brady Tfr.
Klemme:
McCoy(T)
Takin(T)
Knoxville:
Burlington(◊)
Merchants(T)
Ladora:
Rock Island
Lake City:
McCoy(T)
Lake Manawa:
Watson
Lake Mills:
McCoy(T)
Takin(T)
Lake Park:
Brady Tfr.
Wilson(R)
Lake View:
Brady Tfr.
Union(T)
Lakota:
Brady Tfr.
Takin(T)
Lamoni:
Burlington
Merchants(T)
Watson(◊)
Lanesboro:
Brady Tfr.
Langworthy:
H. & W. Motor
La Porte City:
McCoy
Larrabee:
Union(T)
Watson
Latimer:
McCoy
Takin(T)
Laurens:
Brady Tfr.
Lawler:
Takin(T)
Lebanon:
Wilson(R)
Le Claire:
Rock Island
Ledyard:
Brady Tfr.
Takin(T)
Lehigh:
Brady Tfr.
Leighton:
Rock Island
Leland:
Takin(T)
Le Mars:
Brady Tfr.(◊)
Union(T)
Watson
Lenox:
Burlington
Watson
Leon:
Burlington
Merchants(T)
Watson
Letts:
Rock Island
Levey:
Watson
Lewis:
Merchants(T)
On-Time(T)
Rock Island
Libertyville:
Rock Island
Lidderdale:
Brady Tfr.
Lime Springs:
Takin(T)
Lineville:
Rock Island
Linn Grove:
Union(T)
Linwood:
H. & W. Motor
Rock Island
Lisbon:
H. & W. Motor
Little Cedar:
Merchants(T)
Takin(T)
Little Rock:
Brady Tfr.
Livermore:
Brady Tfr.
Lockridge:
Burlington
Logan:
Brady Tfr
Merchants(T)
On-Time(T)
Lone Rock:
Brady Tfr.
Takin(T)
Lorah:
Rock Island
Lourdes:
Merchants(T)
Takin(T)
Loveland:
Brady Tfr
Merchants(T)
On-Time(T)
Lovilia:
Burlington
Lowden:
H. & W. Motor
Luana:
H. & W. Motor
Lucas:
Burlington
Luxemburg:
H. & W. Motor
Lyman:
Merchants(T)
Watson
Lyons:
H. & W. Motor
Hayes(T)
Keeshin
Lytton:
McCoy(T)
Union(T)
McCallsburg:
Rock Island
McGregor:
H. & W. Motor
Macedonia:
Merchants(T)
On-Time(T)
Madrid:
McCoy(T)
Merchants(T)
Malcom:
Rock Island
Malone:
H. & W. Motor
Maloy:
Merchants(T)
Malvern:
Burlington
Merchants(T)
On-Time(T)
Watson
Manchester:
H. & W. Motor
Manilla:
Brady Tfr.
Merchants(T)
Manly:
McCoy(T)
Rock Island
Takin(T)
Watson
Manning:
Brady Tfr.
Manson:
Brady Tfr.
McCoy(T)
Union(T)
Mapleton:
Brady Tfr.
Merchants(T)
Maquoketa:
H. & W. Motor(◊)
Marble Rock:
Takin(T)
Marcus:
Brady Tfr
Union(T)
Marengo:
Rock Island
Marion:
H. & W. Motor
Keeshin
Marne:
Rock Island
Marquette:
H. & W. Motor
Marquisville:
Watson
MARSHALLTOWN:
Keeshin(◊)
Martensdale:
Merchants(T)
Marysville Jct.:
Burlington
MASON CITY:
McCoy(◊)(R)
Merchants(T)
Rock Island
Takin(◊)(R)
Watson(◊)
Masonville:
H. & W. Motor
Massena:
Merchants(T)
Matlock:
Brady Tfr.
Wilson(R)
Maurice:
Union(T)
Watson
Max:
Watson
Wilson(R)
May City:
Wilson(R)
Maynard:
Takin(T)
Mechanicsville:
H. & W. Motor
Medora:
Watson
Melbourne:
Watson
Melcher:
Merchants(T)
Melrose:
Burlington
Melvin:
Brady Tfr.
Wilson(R)
Menlo:
Merchants(T)
Rock Island
Watson
Meriden:
Brady Tfr.
Union(T)
Watson
Merrill:
Brady Tfr.
Union(T)
Watson
Meservey:
Takin(T)
Middle Amana:
Merchants(T)
Middleburg:
Union(T)
Wilson(R)
Middletown:
Burlington
Midvale:
McCoy(T)
Milford:
Brady Tfr
Union
Watson
Wilson(R)
Millville:
H. & W. Motor
Minburn:
Merchants(T)
Minden:
McCoy(T)
Merchants(T)
On-Time(T)
Rock Island
Missouri Valley:
Brady Tfr.
On-Time(T)
Union(T)
Watson(T)
Mitchell:
Merchants(T)
Takin(T)
Mitchellville:
Rock Island
Watson
Modale:
Merchants(T)
Mondamin:
Merchants(T)
Union(T)
Monona:
H. & W. Motor
Monroe:
Rock Island
Montgomery:
Wilson(R)
Monticello:
H. & W. Motor(◊)
Montpelier:
Rock Island
Montrose:
Burlington
Moorar:
Burlington
Moorhead:
Merchants(T)
Morrison:
Takin(T)
Morton Mills:
Burlington
Watson
Moscow:
Rock Island
Mount Joy:
H. & W. Motor
Mt. Pleasant:
Burlington(◊)
Mt. Vernon:
H. & W. Motor
Moville:
Union(T)
Munterville:
Burlington
Murray:
Burlington
MUSCATINE:
Rock Island(◊)
Nashua:
McCoy
Merchants(T)
Takin(R)
National:
H. & W. Motor
Neola:
Burlington
Neola:
McCoy(T)
Merchants(T)
On-Time(T)
Rock Island
Nevada:
Rock Island
Watson
Newell:
Brady Tfr.
New Hampton:
McCoy
Takin(T)
New Hartford:
Brady Tfr.
New Haven:
Merchants(T)
Takin(T)
Newkirk:
Union(T)
Wilson(R)
New London:
Burlington
New Market:
Burlington
Watson
NEWTON:
Keeshin
McCoy(◊)
Rock Island(◊)
Watson
Nodaway:
Burlington
Watson
Nora Springs:
McCoy
Takin(R)
Northboro:
Watson
North Liberty:
Merchants(T)
North Washington:
McCoy
Northwood:
McCoy(T)
Rock Island
Takin(T)
Watson
Nortonville:
Burlington
Norwalk:
Merchants
Norwich:
Burlington
Watson
Oakland:
Merchants(T)
On-Time(T)
Rock Island
Watson
Ocheyedan:
Brady Tfr.
Wilson(R)
Odebolt:
Brady Tfr.
McCoy(T)
Union(T)
Oelwein:
Takin(R)
Ogden:
Brady Tfr.
McCoy(T)
Okoboji:
Brady Tfr.
Union
Watson
Wilson(R)
Onawa:
Watson(T)
Orange City:
Union(T)
Wilson(R)
Orchard:
Merchants(T)
Takin(T)
Orient:
Merchants(T)
Orleans:
Burlington
Wilson(R)
Ortonville:
Watson
Osage:
McCoy
Merchants(T)
Takin(T)
Osceola:
Burlington(◊)
Watson
OSKALOOSA:
Burlington(◊)
Rock Island
Ossian:
H. & W. Motor
Takin(T)
Otho:
Brady Tfr.
Otley:
Rock Island
Otter Creek:
H. & W. Motor
Ottosen:
Brady Tfr.
OTTUMWA:
Burlington(◊)(R)
Rock Island(◊)
Oxford:
Rock Island
Oyens:
Brady Tfr.
Union(T)
Pacific Junction:
Merchants(T)
Watson
Page Centre:
Watson
Palmer:
Brady Tfr.
McCoy(T)
Union(T)
Palo:
McCoy
Panama:
Merchants(T)
Panora:
McCoy(T)
Paralta:
Merchants(T)
Parkersburg:
Brady Tfr.
Patterson:
Merchants(T)
Paullina:
Union(T)
Wilson(R)
Pella:
Rock Island
Watson(◊)
Peosta:
H. & W. Motor
Percival:
Watson
Perkins:
Watson
Wilson(R)
Perlee:
Rock Island
Perry:
Watson(T)
Persia:
Merchants(T)
Peterson:
Union(T)
Wilson(R)

Train service shown is to or via Direct Air Carrier shown except as noted. See pages 5 and 7 for full name, address and telephone number of Carriers.
◊ Terminal.
. Service involves transfer to a connecting carrier en route.
R Refrigerator service also available.

(F# 2482 - p. 1640)

IOWA—Continued (Philby to Washington)

Philby:
Wilson®

Pierson:
Union(T)

Pilot Mound:
Brady Tfr.

Pisgah:
Merchants(T)

Plainfield:
McCoy
Merchants(T)
Takin(T)

Plano:
Burlington

Pleasant Valley:
Hayes
Rock Island

Pleasantville:
Merchants(T)

Plessis:
Wilson®

Plymouth:
Takin(T)

Pocahontas:
Brady Tfr.
McCoy(T)
Union(T)

Pomeroy:
Brady Tfr.
McCoy(T)
Union(T)

Portsmouth:
Merchants(T)

Postville:
H. & W. Motor
Takin(T)

Prairie City:
Rock Island

Prescott:
Burlington

Primghar:
Union(T)
Watson
Wilson®

Princeton:
Rock Island

Prole:
Merchants(T)

Promise City:
Burlington

Protivin:
H. & W. Motor

Quick:
Watson

Ralston:
McCoy(T)

Randall:
Merchants(T)

Randolph:
Merchants(T)
Watson

Redfield:
McCoy(T)
Merchants(T)
Watson

Red Oak:
Burlington◊
Merchants(T)
On-Time(T)
Watson◊®

Reeve:
Rock Island

Reinbeck:
Merchants(T)
Takin(T)

Rembrandt:
Union(T)

Remsen:
Brady Tfr
Union(T)
Watson

Ricesville:
McCoy(T)
Merchants(T)
Takin(T)

Ridgeway:
H. & W. Motor
Merchants(T)
Takin(T)

Ringsted:
Brady Tfr.
Takin(T)

Ritter:
Brady Tfr.
Wilson®

River Sioux:
Merchants(T)

Riverton:
Merchants(T)
Watson

Roberts:
Brady Tfr.

Rockford:
McCoy(T)
Takin(T)

Rock Rapids:
Union(T)
Watson

Rock Valley:
Union(T)
Wilson®

Rockwell:
McCoy(T)
Rock Island
Takin(T)

Rockwell City:
McCoy(T)

Roland:
McCoy(T)
Merchants(T)

Rome:
Burlington

Rossie:
Union(T)

Rowan:
McCoy
Takin(T)

Royal:
Union(T)

Rudd:
McCoy
Takin®

Russell:
Burlington

Ruthven:
Brady Tfr.

Ryan:
H. & W. Motor

Sac City:
Brady Tfr.
McCoy(T)
Union(T)
Watson(T)

Sageville:
H. & W. Motor

St. Ansgar:
McCoy(T)
Merchants(T)
Takin(T)

St. Charles:
Merchants(T)

St. Marys:
Merchants(T)

Salix:
Union(T)

Sanborn:
Brady Tfr.
Watson
Wilson®

Saratoga:
Merchants(T)
Takin(T)

Saylor:
Watson

Saylorville:
Watson

Scarville:
Takin(T)

Schaller:
McCoy(T)
Union(T)

Schleswig:
Brady Tfr

Scranton:
McCoy(T)

Seney:
Union(T)

Sergeant Bluff:
Union(T)

Seymour:
Rock Island

Shafton Sta.:
Rock Island

Shambaugh:
Watson

Sharpsburg:
Watson

Sheffield:
McCoy(T)
Rock Island
Takin(T)

Shelby:
Merchants(T)
Rock Island

Sheldon:
Brady Tfr.
Union
Watson(T)
Wilson®

Shell Rock:
McCoy◊

Shellsburg:
McCoy

Shenandoah:
Burlington◊
Merchants(T)
On-Time(T)
Watson◊®

Sherman:
Rock Island

Shueyville:
Merchants(T)

Sibley:
Brady Tfr.
Union(T)

Sidney:
Merchants(T)
On-Time(T)
Watson®

Sinclair:
Brady Tfr.

Sioux Center:
Union(T)
Watson
Wilson®

SIOUX CITY:
Brady Tfr.◊
Independent Tr.◊®
Transamerican◊
Unger◊
Watson◊®
Wilson◊®

Sioux Rapids:
Brady Tfr.
Union(T)
Watson

Sloan:
Union

Smithland:
Brady Tfr.
Union(T)

Soldier:
Merchants(T)

South Amana:
Merchants(T)
Rock Island

Spencer:
Brady Tfr.◊
Union
Watson◊®
Wilson®

Spillville:
H. & W. Motor

Spirit Lake:
Brady Tfr.
Union
Watson
Wilson®

Spring Grove:
Burlington

Springville:
H. & W. Motor

Stacyville:
McCoy(T)
Merchants(T)
Takin(T)

Stanton:
Burlington
Watson®

Stanwood:
H. & W. Motor

Stockton:
Rock Island

Storm Lake:
Brady Tfr.◊
Union
Watson◊®

Story City:
Merchants(T)

Stout:
Merchants(T)
Takin(T)

Strawberry Point:
Takin(T)

Stringtown:
Burlington

Stuart:
Merchants(T)
Rock Island
Watson

Sumner:
Takin(T)

Superior:
Brady Tfr.
Wilson®

Sutherland:
Union(T)
Wilson®

Swaledale:
Takin(T)

Swan:
Merchants(T)

Swea City:
Brady Tfr.
Takin(T)

Tabor:
Merchants(T)
On-Time(T)
Watson

Talmage:
Burlington

Tama:
McCoy(T)

Templeton:
Brady Tfr.
Merchants(T)

Tennant:
Merchants(T)

Tenville Jct.:
Watson(T)

Thayer:
Burlington

Thompson:
McCoy(T)
Takin(T)

Thornton:
Takin(T)

Thurman:
Watson

Tiffin:
Rock Island

Tingley:
Merchants(T)

Tipton:
H. & W. Motor

Titonka:
Brady Tfr.
Takin(T)

Toledo:
McCoy

Traer:
McCoy

Treynor:
Merchants(T)
Rock Island
Watson

Tripoli:
Merchants(T)
Takin(T)

Truesdale:
Union(T)

Truro:
Merchants(T)

Ulmer:
McCoy(T)

Underwood:
McCoy(T)
Merchants(T)
On-Time(T)
Rock Island

Urbandale:
Watson

Ute:
Brady Tfr.
Merchants(T)

Valley Junction:
Merchants(T)

Van Meter:
Merchants(T)
Rock Island

Ventura:
McCoy(T)
Takin(T)

Verdi:
Rock Island

Victor:
Rock Island

Villisca:
Watson◊®

Vinje:
Takin(T)

Vinton:
McCoy

Voorhies:
McCoy

Waconia:
Merchants(T)

Walcott:
Rock Island

Walford:
Merchants(T)

Wallace:
Brady Tfr.

Wallingford:
Brady Tfr.

Wall Lake:
Brady Tfr.

Walnut:
Merchants(T)
Rock Island

Washington:
Keeshin
Rock Island

TAKIN BROS. FREIGHT LINE, INC.

Chicago, Ill., 1500 W. 33rd St. — Virginia 7-2439

Direct Service to IOWA:

Aladdin
Cedar Falls
Cedar Rapids
Charles City
Crandic
Floyd
Independence
Jamesville
Jesup
Mason City
Nashua
Nora Springs
Plainfield
Rudd
Waterloo
Waverly

Home Office—Waterloo, Iowa

Trucking service shown herein is Direct via Carrier shown, except as noted. See pages 5 and 7 for full name, address and telephone number of Carriers.
◊Terminal.
(T)Service involves transfer to a connecting carrier en route.
®Refrigerator service also available.

[fol. 2483]

Washta:
Union

WATERLOO:
Brady Tfr
H & W Motor
Keeshin
McCoy
Merchants
Takin

Waukee:
Merchants
Watson

Waukon:
Gateway

Waverly:
McCoy
Merchants
Takin

Webster City:
Brady Tfr.
McCoy
Takin
Union
Watson

Weldon:
Merchants

Wellman:
Rock Island

Wellsburg:
Merchants
Takin

Welton:
H & W Motor

Wesley:
McCoy
Takin

West Amana:
Merchants

West Bend:
Brady Tfr.

West Burlington:
Burlington

West Des Moines:
Brady Tfr.
Keeshin
McCoy
Rock Island
Watson

Westfield:
Union

West Grove:
Burlington

West Liberty:
Rock Island

Weston:
McCoy
Merchants
Rock Island

West Union:
Takin

Wever:
Burlington

Wheatland:
H. & W. Motor

Whiting:
Merchants
Union

Whittier:
Merchants

Wick:
Merchants

Williams:
Brady Tfr.

Williamson:
McCoy
Merchants

Williamstown:
Takin

Wilton Jct.:
Rock Island

Winterset:
McCoy
Merchants
Watson

Winthrop:
H & W Motor

Wiota:
Rock Island
Watson

Woden:
Brady Tfr.
Takin

Woodbine:
Merchants
On-Time

Woodburn:
Burlington

Woolstock:
McCoy

Wren:
Watson

Wright:
Burlington

Yetter:
Brady Tfr.

Yorktown:
Merchants

Youngstown:
Watson

Zwingle:
H & W Motor

1842

[fol. 2484]

Abbott:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson Ⓣ

Abie:
Merchants Ⓣ
Union Ⓣ

Adams:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson

Agnew:
Merchants Ⓣ
Union Ⓣ

Ainsworth:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson Ⓣ

Aircraft Plant (Ft. Crook):
On-Time

Air Mechanics Training School:
Watson

Albion:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson

Albright:
Independent Tr.Ⓣ
On-Time Ⓣ

Alda:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson Ⓣ

Alexandria:
Independent Tr.Ⓣ
Merchants Ⓣ
Union Ⓣ

Allen:
Independent Tr.Ⓣ
Merchants Ⓣ
Union Ⓣ
Watson

Alliance:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson Ⓣ

Alma:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ

Almeria:
Merchants Ⓣ
Union Ⓣ

Altona:
Merchants Ⓣ

Alvo:
Merchants Ⓣ
Union Ⓣ

Amelia:
Merchants Ⓣ
Union Ⓣ

Ames:
Independent Tr.Ⓣ
On-Time
Union Ⓣ
Watson Ⓣ

Amherst:
Merchants Ⓣ
Watson Ⓣ

Andrews:
Watson Ⓣ

Angora:
Merchants Ⓣ

Angus:
Merchants Ⓣ

Anselmo:
Merchants Ⓣ
Union Ⓣ
Watson Ⓣ

Ansley:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ

Antioch:
Merchants Ⓣ

Arabia:
Watson Ⓣ

Arapahoe:
Burlington
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson

Arcadia:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ

Archer:
Merchants Ⓣ
Union Ⓣ

Arlington:
Merchants Ⓣ
Union Ⓣ

Arnold:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Watson Ⓣ

Arthur:
Merchants Ⓣ
Watson Ⓣ

Ashby:
Merchants Ⓣ
Union Ⓣ
Watson Ⓣ

Ashland:
Independent Tr.Ⓣ
On-Time
Union Ⓣ
Watson

Ashton:
Independent Tr.Ⓣ
Merchants Ⓣ
Union Ⓣ

Atkinson:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ

Atlanta:
Burlington
Independent Tr.Ⓣ
Merchants Ⓣ
Union Ⓣ

Auburn:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson

Aurora:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson Ⓣ

Avery:
Independent Tr.Ⓣ
Merchants Ⓣ

Avoca:
Independent Tr.Ⓣ
Merchants Ⓣ
Union Ⓣ

Axtell:
Burlington
Independent Tr.Ⓣ
Merchants Ⓣ
Union Ⓣ

Ayr:
Merchants Ⓣ
Union Ⓣ
Watson Ⓣ

Ballagh:
Merchants Ⓣ
Union Ⓣ

Bancroft:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ

Barada:
Merchants Ⓣ
Union Ⓣ

Barneston:
Independent Tr.Ⓣ
Merchants Ⓣ
Union Ⓣ

Bartlett:
Merchants Ⓣ
Union Ⓣ

Bartley:
Burlington
Independent Tr.Ⓣ
Merchants Ⓣ
Union Ⓣ

Bassett:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson Ⓣ

Battle Creek:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson

Bayard:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson Ⓣ

Battle Creek:
Watson

BEATRICE:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Rock Island
Union Ⓣ
Watson ◆Ⓣ

Beaver City:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ

Beaver Crossing:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ

Bee:
Merchants Ⓣ

Beemer:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson

Belden:
Independent Tr.Ⓣ
Merchants Ⓣ
Union Ⓣ

Belgrade:
Merchants Ⓣ
Union Ⓣ

Bellevue:
Independent Tr.Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson

Bellwood:
Watson

Belvidere:
Merchants Ⓣ
Union Ⓣ

Benedict:
Merchants Ⓣ
Union Ⓣ

Benkelman:
Burlington
Independent Tr.Ⓣ
Merchants Ⓣ
Union Ⓣ
Watson Ⓣ

Bennett:
Independent Tr.Ⓣ
Merchants Ⓣ
Union Ⓣ

Bennington:
Independent Tr.Ⓣ
Merchants Ⓣ
Union Ⓣ
Watson

Benson:
Independent Tr.Ⓣ
On-Time Ⓣ

Berea:
Merchants Ⓣ

Bertrand:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ

Berwyn:
Merchants Ⓣ
Union Ⓣ

Beverly:
Burlington
Merchants Ⓣ
Union Ⓣ
Watson Ⓣ

Big Springs:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson Ⓣ

Bingham:
Merchants Ⓣ

Bladen:
Merchants Ⓣ
Union Ⓣ

Blair:
Independent Tr.Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson Ⓣ

Bloomfield:
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ

Bloomington:
Merchants Ⓣ
Union Ⓣ

Blue Hill:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ

Blue Springs:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson

Boelus:
Merchants Ⓣ
Union Ⓣ
Watson Ⓣ

Boone:
Independent Tr.Ⓣ
Merchants Ⓣ
Union Ⓣ

Bordeaux:
Watson Ⓣ

Trucking service shown herein is Direct via Carrier shown, except as noted. See pages 5 and 7 for full name, address and telephone number of Carriers.
◆Terminal.

ⓉService involves transfer to a connecting carrier en route.
ⒼRefrigerator service also available.

[fol. 2485]

(Ex. 248 - p. 1843)

Bostwick:
Merchants(T)
Union(T)

Bow Valley:
Merchants(T)
Union(T)

Boys Town:
Independent Tr.(T)
Merchants(T)
Union
Watson

Bradish:
Merchants(T)

Bradshaw:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson(T)

Brady:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)

Brainard:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)

Brandon:
Merchants(T)
On-Time(T)
Union(T)
Watson(T)

Brayton:
Merchants(T)
Union(T)

Breslau:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson

Brewster:
Watson(T)

Bridgeport:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union
Watson(T)

Bristow:
Merchants(T)
Watson

Broadwater:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson(T)

Brock:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson

Broken Bow:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)

Brownson:
Merchants(T)
Union(T)
Watson(T)

Brownville:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson

Brule:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson(T)

Bruning:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)

Bruning Air Base:
Union(T)

Bruno:
Merchants(T)
Union(T)

Brunswick:
Independent Tr.(T)
Merchants(T)
Union(T)

Buda:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson(T)

Burchard:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson

Burr:
Merchants(T)
Union(T)

Burwell:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)

Bushnell:
Merchants(T)
Union(T)
Watson(T)

Butte:
On-Time(T)
Union(T)
Watson
Wilson(R)

Byron:
Merchants(T)
Union(T)

Cadams:
Merchants(T)
Union(T)

Cairo:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)

Callaway:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Watson(T)

Cambridge:
Burlington
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)

Cameron:
Watson(T)

Campbell:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)

Carleton:
Merchants(T)
Union(T)

Carroll:
Merchants(T)
Union(T)

Cedar Bluffs:
Independent Tr.(T)
Merchants(T)
On-Time(T)

Cedar Creek:
Merchants(T)
Union(T)

Cedar Rapids:
Independent Tr.(T)
Merchants(T)
On-Time(T)

Center:
Merchants(T)
Union(T)
Watson

Central City:
Independent Tr.(T)
Merchants(T)
On-Time
Union(T)
Watson

Ceresco:
Merchants(T)
Union(T)

Chadron:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)
Wilson(R)

Chambers:
Merchants(T)

Champion:
Burlington
Merchants(T)
Union(T)
Watson(T)

Chapman:
Independent Tr.(T)
Merchants(T)
On-Time
Union(T)
Watson

Chappell:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)

Cheney:
Merchants(T)
Union(T)
Watson(T)

Chester:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)

Chimney Rock:
Watson(T)

Clarks:
Independent Tr.(T)
Merchants(T)
On-Time
Union(T)
Watson(T)

Clarkson:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)

Clatonia:
Merchants(T)
Union(T)

Clay Center:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson

Clearwater:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson

Clinton:
Merchants(T)
Union(T)
Watson(T)

Cody:
Merchants(T)
On-Time(T)
Union(T)
Watson(T)

Coleridge:
On-Time(T)
Union(T)

Collegeview:
Independent Tr.(T)
On-Time(T)

Colon:
Merchants(T)

Colton:
Merchants(T)
Union(T)
Watson(T)

Columbus:
Independent Tr.(R)
Merchants(T)
On-Time(♦)
Union(T)
Watson(♦)

Comstock:
Merchants(T)
Union(T)

Concord:
Merchants(T)
Union(T)

Cook:
Merchants(T)
Union(T)

Copenhagen:
Merchants(T)
Union(T)

Coplant:
Independent Tr.(T)
Merchants(T)
On-Time
Union(T)
Watson(T)

Cordova:
Merchants(T)
Union(T)

Cornhusker:
Independent Tr.(T)

Cornlea:
Independent Tr.(T)
Merchants(T)
Watson

Cortland:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson

Cotesfield:
Merchants(T)
Union(T)

Cowles:
Merchants(T)
Union(T)

Cozad:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson

Crab Orchard:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson

Craig:
Merchants(T)
Union(T)

Crawford:
Merchants(T)
On-Time(T)
Union(T)
Watson(T)
Wilson(R)

Creighton:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson

Creston:
Merchants(T)
Union(T)

Crete:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union
Watson

Crofton:
Merchants(T)
Union(T)

Crookston:
Merchants(T)
Union(T)
Watson(T)

Crowell:
Merchants(T)
Union(T)
Watson(T)

Culbertson:
Burlington
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)

Curtis:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)

Cushing:
Merchants(T)
Union(T)

Dakota City:
Union(T)
Watson

Dakota Jct.:
Watson(T)

Dalton:
Merchants(T)
Union
Watson(T)

Danbury:
Merchants(T)
Union(T)

Dannebrog:
Merchants(T)
Watson(T)

Darr:
Merchants(T)
Union(T)
Watson(T)

Davenport:
Independent Tr.(T)
Merchants(T)
Union(T)

David City:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(♦)

Dawson:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson

Daykin:
Merchants(T)
Union(T)

Decatur:
Independent Tr.(T)
On-Time(T)
Union(T)

Deshler:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)

Deweese:
Merchants(T)
Union(T)

De Witt:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson

Dexter:
Watson(T)

Dickens:
Merchants(T)
Union(T)
Watson(T)

Diller:
Merchants(T)
Union(T)

Dix:
Merchants(T)
Union(T)
Watson(T)

Dixon:
Merchants(T)
Union(T)

Dodge:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)

Doniphan:
Independent Tr.(T)
Merchants(T)
On-Time
Union(T)
Watson

Dorchester:
Burlington
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)

Douglas:
Merchants(T)
Union(T)

DuBois:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson

Dunbar:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson

Duncan:
Independent Tr.(T)
Merchants(T)
On-Time
Union(T)

Dunlap:
Watson(T)

Dunning:
Merchants(T)
Watson(T)

Dwight:
Independent Tr.(T)
Merchants(T)
Union(T)

Eagle:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson

Eddyville:
Merchants(T)

Edgar:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)

Edison:
Burlington
Merchants(T)
Union(T)

Elba:
Merchants(T)
Union(T)

Eldorado:
Watson

Elgin:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson

Eli:
Merchants(T)
Watson(T)

Elk City:
Merchants(T)
Watson

Elk Creek:
Watson

Elkhorn:
Independent Tr.(T)
Merchants(T)
Union(T)

Ellis:
Merchants(T)
Rock Island
Union(T)
Watson

Ellsworth:
Merchants(T)
Watson(T)

Elm Creek:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson

Elmwood:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson

Elsie:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson(T)

Elwood:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)

Elyria:
Merchants(T)
Union(T)

Emerald:
Burlington
Independent Tr.(T)
Merchants(T)
Union(T)
Watson

Trucking service shown herein is Direct via Carrier shown, except as noted.
See pages 5 and 7 for full name, address and telephone number of Carriers.
♦Terminal.

(T)Service involves transfer to a connecting carrier en route.
(R)Refrigerator service also available.

Emerson:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson

Emmet:
Merchants Ⓣ
Union Ⓣ

Enders:
Burlington
Independent Tr.Ⓣ
Merchants Ⓣ
Union Ⓣ
Watson Ⓣ

Endicott:
Merchants Ⓣ
Union Ⓣ

Enola:
Merchants Ⓣ
Watson Ⓣ

Ericson:
Union Ⓣ

Eustis:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson Ⓣ

Ewing:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson

Exeter:
Burlington
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ

Fairbury:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Rock Island
Union Ⓣ
Watson

Fairfield:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ

Fairmont:
Burlington
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson

Fairmont Air Base:
Union Ⓣ

Falls City:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson◆

Farnam:
Merchants Ⓣ

Farwell:
Merchants Ⓣ
Union Ⓣ

Filley:
Independent Tr.Ⓣ
Merchants Ⓣ
Union Ⓣ
Watson

Firestone:
Independent Tr.Ⓣ
On Time
Watson

Firth:
Merchants Ⓣ
Union Ⓣ

Flickville:
Watson

Florence:
Independent Tr.Ⓣ
On-Time

Fordyce:
Merchants Ⓣ

Fort Calhoun:
Union Ⓣ
Watson Ⓣ

Fort Crook:
Independent Tr Ⓣ
Merchants
On-Time
Rock Island
Union
Watson

Fort Omaha:
Independent Tr.Ⓡ
Merchants Ⓣ
On-Time
Rock Island
Watson

Fort Robinson:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson Ⓣ

Foster:
Merchants Ⓣ

Franklin:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson Ⓣ

FREMONT:
Independent Tr.Ⓣ
On-Time
Union◆
Watson◆

Friend:
Burlington
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson Ⓣ

Fullerton:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Watson

Funk:
Burlington
Merchants Ⓣ
Union Ⓣ
Watson Ⓣ

Gandy:
Merchants Ⓣ
Watson Ⓣ

Geneva:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson

Genoa:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson

Gering:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union
Watson Ⓣ

Gibbon:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson

Gilead:
Merchants Ⓣ
Rock Island

Gladstone:
Merchants Ⓣ
Rock Island
Union Ⓣ

Glen:
Watson Ⓣ

Glenville:
Merchants Ⓣ
Union Ⓣ

Glenwood:
Watson Ⓣ

Goehner:
Merchants Ⓣ

Gordon:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson Ⓣ

Gothenburg:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson

Graf:
Merchants Ⓣ
Union Ⓣ

Grafton:
Burlington
Independent Tr.Ⓣ
Merchants Ⓣ
Union Ⓣ
Watson

Grainton:
Merchants Ⓣ
Union Ⓣ
Watson Ⓣ

GRAND ISLAND:
Burlington
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time◆
Union Ⓣ
Watson◆Ⓡ
Wilson Ⓣ

Grant:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson Ⓣ

Greeley:
Independent Tr.Ⓣ
On-Time Ⓣ
Union Ⓣ

Greeley Center:
Merchants Ⓣ

Greenwood:
Independent Tr.Ⓣ
On-Time
Union Ⓣ
Watson

Gresham:
Independent Tr Ⓣ
Merchants Ⓣ
Union Ⓣ

Gretna:
Independent Tr Ⓣ
On-Time
Union Ⓣ
Watson

Guide Rock:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ

Gurley:
Merchants Ⓣ
Union Ⓣ
Watson Ⓣ

Hadar:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson

Haig:
Union Ⓣ

Haigler:
Burlington
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson Ⓣ

Hallam:
Merchants Ⓣ
Union Ⓣ

Halsey:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Watson Ⓣ

Hamlet:
Burlington
Independent Tr.Ⓣ
Merchants Ⓣ
Union Ⓣ
Watson Ⓣ

Hampton:
Independent Tr.Ⓣ
Merchants Ⓣ
Union Ⓣ
Watson Ⓣ

Hansen:
Burlington
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time
Union Ⓣ
Watson

Harbine:
Independent Tr.Ⓣ
Merchants Ⓣ
Rock Island
Union Ⓣ
Watson

Hardy:
Merchants Ⓣ
Union Ⓣ

Harrisburg:
Merchants Ⓣ
Union Ⓣ
Watson Ⓣ

Harrison:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson Ⓣ

Hartington:
On-Time Ⓣ
Union Ⓣ

Harvard:
Burlington
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson

Harvard Air Base:
Watson

HASTINGS:
Burlington◆
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time◆
Union Ⓣ
Watson◆Ⓡ

Havelock:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time
Union
Watson Ⓡ

Havens:
Merchants Ⓣ
On-Time
Union Ⓣ

Hayes Center:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson Ⓣ

Hayland:
Watson Ⓣ

Hay Springs:
Merchants Ⓣ
Union Ⓣ
Wilson Ⓣ

Hazard:
Merchants Ⓣ
Union Ⓣ
Watson Ⓣ

Heartwell:
Burlington
Merchants Ⓣ
Union Ⓣ
Watson Ⓣ

Hebron:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson Ⓣ

Hemingford:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson Ⓣ

Henderson:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ

Hendley:
Merchants Ⓣ
Union Ⓣ

Henry:
Merchants Ⓣ
Union Ⓣ
Watson Ⓣ

Herman:
Independent Tr.Ⓣ
Union Ⓣ

Hershey:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson Ⓣ

Hickman:
Merchants Ⓣ
Union Ⓣ

Hildreth:
Merchants Ⓣ
Union Ⓣ
Watson Ⓣ

Holbrook:
Burlington
Independent Tr.Ⓣ
Merchants Ⓣ
Union Ⓣ

Holdrege:
Burlington
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson Ⓣ

Holland:
Merchants Ⓣ
Union Ⓣ

Hollinger:
Merchants Ⓣ
Union Ⓣ

Holstein:
Merchants Ⓣ
Union Ⓣ

Homer:
Independent Tr.Ⓣ
On-Time Ⓣ
Union Ⓣ

Hooper:
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson

Horace:
Merchants Ⓣ
Union Ⓣ

Hordville:
Merchants Ⓣ
Union Ⓣ

Horn:
Watson Ⓣ

Hoskins:
Merchants Ⓣ
Union Ⓣ
Watson

Howe:
Merchants Ⓣ
Union Ⓣ
Watson

Howells:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ

Hubbard:
Union Ⓣ
Watson

Hubbell:
Merchants Ⓣ
Union Ⓣ

Humboldt:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson

Humphrey:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson

Huntley:
Merchants Ⓣ
Union Ⓣ

Huntsman:
Merchants Ⓣ
Union Ⓣ
Watson Ⓣ

Hyannis:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ

Imperial:
Burlington
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson Ⓣ

Inavale:
Merchants Ⓣ
Union Ⓣ

Indianola:
Burlington
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ

Ingleside:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time
Union Ⓣ
Watson Ⓣ

Inland:
Burlington
Union Ⓣ
Watson

Inman:
Merchants Ⓣ
Union Ⓣ
Watson

Irvington:
Watson

Ithaca:
Independent Tr.Ⓣ
Merchants Ⓣ
Union Ⓣ

Jackson:
Independent Tr.Ⓣ
Merchants Ⓣ
Union Ⓣ
Watson

Jamaica:
Merchants Ⓣ
Watson

Jansen:
Independent Tr.Ⓣ
Merchants Ⓣ
Rock Island
Union Ⓣ
Watson

Johnson:
Independent Tr.Ⓣ
Merchants Ⓣ
Union Ⓣ
Watson

Johnstown:
Merchants Ⓣ
Union Ⓣ
Watson Ⓣ

Julian:
Independent Tr.Ⓣ
Merchants Ⓣ
Union Ⓣ

Juniata:
Burlington
Independent Tr.Ⓣ
Merchants Ⓣ
Union Ⓣ
Watson Ⓣ

Kearney:
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson

Keene:
Merchants Ⓣ
Union Ⓣ
Watson Ⓣ

Kenesaw:
Burlington
Independent Tr.Ⓣ
Merchants Ⓣ
On-Time Ⓣ
Union Ⓣ
Watson Ⓣ

Kennard:
Merchants Ⓣ
Union Ⓣ

Trucking service shown herein is Direct via Carrier shown, except as noted.
See pages 5 and 7 for full name, address and telephone number of Carriers.
◆Terminal.
Ⓣ Service involves transfer to a connecting carrier en route.
Ⓡ Refrigerator service also available.

Kent:
Watson

Kilgore:
Merchants(T)
Union(T)
Watson(T)

Kimball:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union
Watson(T)

Lakeside:
Merchants(T)
Watson(T)

Lamar:
Burlington
Watson(T)

La Platte:
Independent Tr.(T)
Merchants(T)
Watson

Laurel:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)

Lawrence:
Independent Tr.(T)
Merchants(T)
(Cont. next column)

On-Time(T)
Union(T)

Lebanon:
Merchants(T)
Union(T)

Leigh:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)

Lemoyne:
Merchants(T)

Leshara:
Union(T)

Lewellen:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)

Lewiston:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson

Lexington:
Independent Tr.(T)
Merchants(T)
(Cont. next column)

On-Time(T)
Union(T)
Watson

Liberty:
Merchants(T)
Union(T)
Watson

LINCOLN:
Burlington◊
Independent Tr◊(T)
On-Time◊
Rock Island◊
Transamerican◊
Union◊
Watson◊(T)

Lincoln Air Base:
Watson(T)

Lindsay:
Merchants(T)
Watson

Linwood:
Merchants(T)
Union(T)

Lisco:
Merchants(T)
Union(T)
Watson(T)

Litchfield:
Merchants(T)
Union(T)

Lodge Pole:
Merchants(T)
Union(T)
Watson(T)

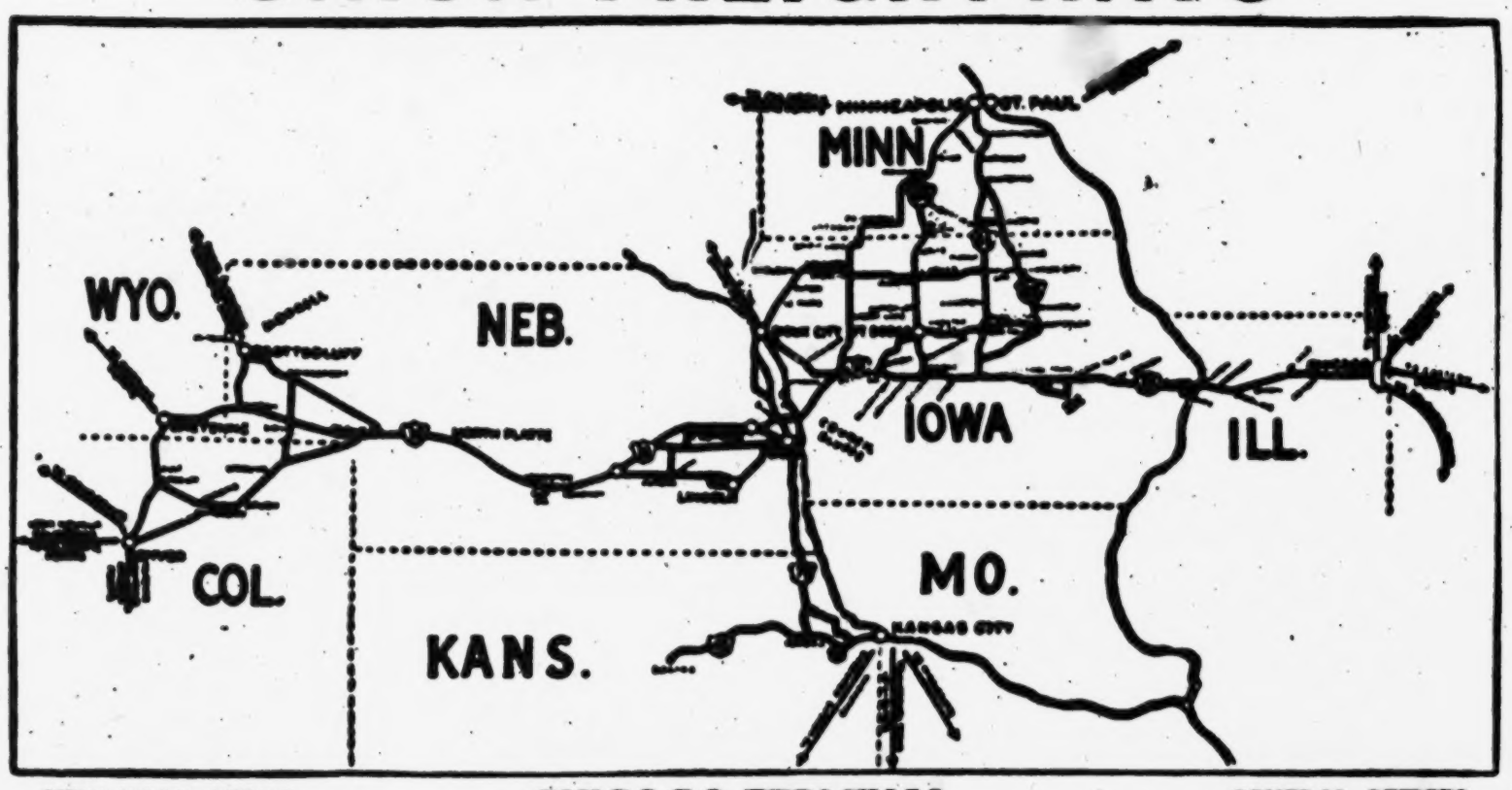
Loma:
Merchants(T)

Long Pine:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)

Loomis:
Merchants(T)
Union(T)
Watson(T)

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NORTH PLATTE, NEB.
SCOTTSBLUFF, NEB.
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$ WATERLOO, IOWA

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IDAHO OREGON WYOMING

2850 S. Halsted Street : - : CHICAGO, ILL. : - : DAnube 6-4211

Trucking service shown herein is Direct via Carrier shown, except as noted. See pages 5 and 7 for full name, address and telephone number of Carriers.
◊Terminal.
‡Service involves transfer to a connecting carrier en route.
●Refrigerator service also available.

NEBRASKA—Continued (Lorenzo to Prague)

Lorenzo:
Watson(T)
Loretto:
Merchants(T)
Watson
Lorton:
Merchants(T)
Union(T)
Louisville:
Merchants(T)
On-Time(T)
Union(T)
Loup City:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)
Lowell:
Watson(T)
Lushton:
Merchants(T)
Union(T)
Lyman:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)
Lynch:
Merchants(T)
On-Time(T)
Union(T)
Watson
Lyons:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)
McCook:
Burlington◊
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
McCool Junction:
Merchants(T)
Union(T)
McGrew:
Merchants(T)
Watson(T)
McLean:
Merchants(T)
Union(T)
Macon:
Merchants(T)
Union(T)
Macy:
Merchants(T)
Union(T)
Madison:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson
Madrid:
Merchants(T)
Union(T)
Watson(T)
Magnet:
Merchants(T)
Malmo:
Merchants(T)
Manley:
Merchants(T)
Union(T)
Marsland:
Merchants(T)
Watson(T)
Martell:
Watson

Martland:
Union(T)
Masent:
Burlington
Independent Tr.(T)
Union(T)
Mason:
Merchants(T)
Mason City:
Merchants(T)
Union(T)
Max:
Burlington
Merchants(T)
Union(T)
Watson(T)
Marwell:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson(T)
Mayberry:
Merchants(T)
Watson
Maywood:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson(T)
Mead:
Independent Tr.(T)
Union(T)
Watson
Meadow:
Merchants(T)
Union(T)
Meadow Grove:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson
Meadville:
Union(T)
Melbeta:
Merchants(T)
Union(T)
Watson(T)
Melia:
Watson
Memphis:
Merchants(T)
Merchiston:
Watson
Merna:
Merchants(T)
Union(T)
Watson(T)
Merriman:
Merchants(T)
Union(T)
Watson(T)
Midway:
Wilson(T)
Milford:
Burlington
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Millard:
Independent Tr.(T)
Merchants(T)
On-Time
Union(T)
Watson(T)
Miller:
Merchants(T)
Watson(T)

Milligan:
Merchants(T)
Union(T)
Mills:
Merchants(T)
Minatare:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)
Minden:
Burlington
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)
Mitchell:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)
Monowi:
Merchants(T)
Monroe:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson
Moorefield:
Watson(T)
Morrill:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)
Morse Bluff:
Merchants(T)
Mullen:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Murdock:
Merchants(T)
Union(T)
Murphy:
Watson(T)
Murray:
Merchants(T)
Union(T)
Watson
Mynard:
Merchants(T)
Nacora:
Union(T)
Watson
Naper:
Union(T)
Watson
Naponee:
Merchants(T)
Union(T)
Nebraska City:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)(R)
Nebraska Ordnance Plant:
Independent Tr.(T)
Merchants(T)
Nehawka:
Merchants(T)
Union(T)
Neligh:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson
Wilson(R)

Nelson:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Nemaha:
Merchants(T)
Union(T)
Watson
Nensel:
Merchants(T)
Union(T)
Watson(T)
Newark:
Watson(T)
Newcastle:
Union(T)
Newman Grove:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson
Newport:
Merchants(T)
Union(T)
Nickerson:
Union(T)
Niobrara:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson
Nora:
Merchants(T)
Union(T)
Nordan:
Merchants(T)
NORFOLK:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson◊◊(T)
Wilson◊◊(R)
Norman:
Merchants(T)
Union(T)
Watson(T)
North Bend:
Independent Tr.(T)
On-Time
Union(T)
Watson(T)
North Loup:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
NORTH PLATTE:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union◊
Northport:
Merchants(T)
Union
Watson(T)
Nysted:
Watson(T)
Oak:
Merchants(T)
Oakdale:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson

Oakland:
Independent Tr.(T)
On-Time(T)
Union(T)
Watson(T)
Obert:
Union(T)
Oconee:
Watson
Octavia:
Merchants(T)
Odell:
Merchants(T)
Union(T)
Odessa:
Merchants(T)
Union(T)
Watson(T)
O'Fallons:
Merchants(T)
Union(T)
Watson(T)
Ogallala:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union
Watson(T)
Ohiowa:
Merchants(T)
Union(T)
Oliver:
Merchants(T)
OMAHA:
Burlington◊
Independent Tr.◊◊(R)
Merchants◊
On-Time◊◊
Rock Island◊
Transamerican◊
Union◊◊
Watson◊◊(R)
Wilson◊(R)
O'Neill:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson
Wilson(R)
Ong:
Merchants(T)
Union(T)
Orafino:
Union(T)
Watson(T)
Orchard:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson
Ord:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)
Oreapolis:
Watson
Orella:
Watson(T)
Orleans:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Orum:
Merchants(T)
Union(T)

Osceola:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)
Oshkosh:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)
Osmond:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson
Otoe:
Merchants(T)
Union(T)
Overton:
Merchants(T)
On-Time(T)
Union(T)
Watson
Ovina:
Watson(T)
Owasco:
Merchants(T)
Oxford:
Burlington
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Page:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson
Palisade:
Burlington
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)
Palmer:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Palmyra:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson
Panama:
Merchants(T)
Union(T)
Papillion:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)
Parks:
Merchants(T)
Union(T)
Watson(T)
Paul:
Merchants(T)
Union(T)
Pauline:
Merchants(T)
Pawnee:
Merchants(T)
Pawnee City:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson

Paxton:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)
Peck:
Watson
Pender:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)
Peru:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)
Petersburg:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Watson
Pickrell:
Merchants(T)
Watson
Pierce:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)
Piger:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson
Plainview:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson
Platte Center:
Independent Tr.(T)
On-Time(T)
Union(T)
Watson
Plattsmouth:
Independent Tr.(T)
On-Time(T)
Union(T)
Watson
Pleasanton:
Watson(T)
Plymouth:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson
Polk:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Pomeo:
On-Time(T)
Union(T)
Watson
Poole:
Watson(T)
Potter:
Merchants(T)
Union(T)
Watson(T)
Powell:
On-Time(T)
Prague:
Union(T)

Trucking service shown herein is Direct via Carrier shown, except as noted. See pages 5 and 7 for full name, address and telephone number of Carriers.
◊Terminal.
◊◊Home Office.
(T)Service involves transfer to a connecting carrier en route.
(R)Refrigerator service also available.

Prairie Home:
Merchants(T)
Union(T)

Primrose:
Merchants(T)

Princeton:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson

Prosser:
Merchants(T)
Union(T)
Watson(T)

Purdum:
Merchants(T)

Putnam:
Merchants(T)

Quick:
Union(T)
Watson(T)

Reeville:
Merchants(T)
Watson

Regan:
Merchants(T)
Union(T)

Ralston:
Independent Tr.(T)
Merchants(T)
On-Time
Union(T)

Randolph:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)

Ravenna:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)

Raymond:
Merchants(T)
Union(T)

Red Cloud:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)

Republican City:
Merchants(T)
Union(T)

Reynolds:
Merchants(T)
Union(T)

Richland:
Independent Tr.(T)
Merchants(T)
On-Time
Union(T)
Watson(T)

Ringgold:
Watson(T)

Rising City:
Independent Tr(T)
Merchants(T)
On-Time(T)
Union(T)

Riverdale:
Watson(T)

Riverton:
Merchant D
Union(T)

Rockford:
Merchants(T)
Union(T)

Rockville:
Merchants(T)
Union(T)
Watson(T)

Rogers:
Independent Tr.(T)
Merchants(T)
On-Time
Union(T)

Rohrs:
Merchants(T)
Union(T)
Watson

Rosalie:
Merchants(T)
Union(T)

Roscoe:
Merchants(T)
Union(T)
Watson(T)

Rosedale:
Watson(T)

Rosemont:
Merchants(T)
Union(T)

Royal:
Merchants(T)
Union(T)
Watson

Rule:
Merchants(T)
Union(T)

Rushville:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)
Wilson(T)

Ruskin:
Merchants(T)

Sacramento:
Merchants(T)

St. Edward:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Watson

St. Libory:
Merchants(T)
Union(T)

St. Michael:
Watson(T)

St. Paul:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)

Salem:
Merchants(T)
Union(T)

Saltillo:
Watson(T)

Sanborn:
Merchants(T)

Sargent:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)

Sarenville:
Burlington
Union(T)
Watson

Sartoria:
Watson(T)

Schuyler:
Independent Tr.(T)
Merchants(T)
On-Time
Union(T)
Watson(T)

Scotia:
Merchants(T)
Union(T)

Scottsbluff:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)

Scribner:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson

Sedan:
Merchants(T)

Seneca:
Independent Tr.(T)
Merchants(T)
Watson(T)

Seward:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson

Shelby:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)

Sheldonville:
Watson

Shelton:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson

Shickley:
Merchants(T)
Union(T)

Shubert:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson

Sidney:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union◊
Watson(T)

Silver Creek:
Independent Tr.(T)
Merchants(T)
On-Time
Union(T)
Watson(T)

Smartville:
Merchants(T)

Smithfield:
Merchants(T)
Union(T)
Watson(T)

Snyder:
Merchants(T)
Union(T)

South Bend:
Merchants(T)
Union(T)

South Omaha:
Independent Tr.(R)
On-Time
Rock Island
Watson(R)

So. Sioux City
Union
Watson(R)

Spalding:
On-Time(T)

Sparks:
Merchants(T)
Union(T)

Spencer:
Independent Tr.(T)
On-Time(T)
Watson
Wilson(T)

Sprague:
Watson

Springfield:
Merchants(T)
Union(T)

Spring Ranch:
Merchants(T)

Springview:
Merchants(T)
Watson(T)

Stafford:
Merchants(T)
Watson

Stamford:
Merchants(T)
Union(T)

Stanton:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson

Stapleton:
Merchants(T)
Union(T)
Watson(T)

Steinauer:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson

Stella:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson

Sterling:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)

Stockham:
Watson

Stockville:
Merchants(T)
Union(T)
Watson(T)

Strang:
Merchants(T)
Union(T)

Stratton:
Burlington
Merchants(T)
Union(T)
Watson(T)

Stromsburg:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson

Stuart:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)

Sumner:
Merchants(T)
Union(T)

Sunol:
Merchants(T)
Union(T)
Watson(T)

Superior:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)

Surprise:
Merchants(T)
Union(T)

Sutherland:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)

Sutton:
Burlington
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson

Swan Lake:
Union(T)

Swanton:
Merchants(T)
Union(T)
Watson

Swedesburg:
Merchants(T)
Union(T)

Sweetwater:
Merchants(T)
Union(T)
Watson(T)

Syracuse:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)

Table Rock:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson

Talmage:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson

Tamora:
Merchants(T)
Union(T)

Tarnov:
Union(T)

Taylor:
Merchants(T)

Tecumseh:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson

Telamah:
Independent Tr.(T)
On-Time(T)
Union(T)
Watson(T)

Thayer:
Merchants(T)
Union(T)

Thedford:
Merchants(T)
Watson(T)

Thompson:
Merchants(T)
Union(T)

Thurston:
Merchants(T)
Union(T)

Tilden:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson

Tobias:
Merchants(T)
Union(T)

Touhy:
Merchants(T)
Union(T)

Trenton:
Burlington
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)

Trumbull:
Merchants(T)
Union(T)
Watson(T)

Tryon:
Watson(T)

Uehling:
Union(T)
Watson(T)

Ulysses:
Merchants(T)
Union(T)

Unadilla:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson

Union:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson

U. S. Ordnance Plant:
Watson

University Place:
Independent Tr.(T)
On-Time
Union

Upland:
Merchants(T)
Union(T)
Watson(T)

Utica:
Union(T)
Watson(T)

Valentine:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)

Valley:
Independent Tr.(T)
On-Time
Union(T)
Watson

Valparaiso:
Merchants(T)
Union(T)

Venango:
Merchants(T)
Union(T)
Watson(T)

Venice:
Merchants(T)

Verdel:
Merchants(T)
Watson

Verdigre:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson

Verdon:
Independent Tr.(T)
Merchants(T)
Union(T)
Watson

Verona:
Merchants(T)
Union(T)

Vesta:
Merchants(T)
Union(T)
Watson

Virginia:
Merchants(T)
Union(T)
Watson

Wabash:
Merchants(T)
Union(T)

Wace:
Merchants(T)
Union(T)
Watson(T)

Wahoo:
Independent Tr.(T)
On-Time(T)
Union(T)
Watson(T)

Wakefield:
Merchants(T)
On-Time(T)
Union(T)
Watson

Wallace:
Merchants(T)
Union(T)
Watson(T)

Walthill:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)

Walton:
Watson

Wann:
Merchants(T)
Union(T)

Warnerville:
Merchants(T)

Waterbury:
Union(T)

Waterloo:
On-Time(T)
Union(T)
Watson

Watertown:
Watson(T)

Wauneta:
Burlington
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)

Wausa:
Merchants(T)
On-Time(T)
Union(T)

Waverly:
Independent Tr.(T)
On-Time
Union(T)
Watson

Wayne:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson◊

Wayside:
Watson(T)

Trucking service shown herein is Direct via Carrier shown, except as noted. See pages 5 and 7 for full name, address and telephone number of Carriers.
◊Terminal.
(T)Service involves transfer to a connecting carrier en route.
(R)Refrigerator service also available.

1848

[fol. 2490]

Weeping Water:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)

Weisert:
Merchants(T)

Wellfleet:
Merchants(T)
Watson(T)

Western:
Merchants(T)
Union(T)

Westerville:
Merchants(T)

West Lincoln:
Union

Weston:
Union(T)

West Point:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)

White Clay:
Merchants(T)
Watson(T)
Wilson(T)

Whitman:
Merchants(T)
Union(T)
Watson(T)

Whitney:
Merchants(T)
Union(T)
Watson(T)
Wilson(T)

Wilber:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)

Wilcox:
Merchants(T)
Union(T)
Watson(T)

Willis:
Union(T)

Willow Island:
Merchants(T)
Union(T)
Watson(T)

Wilsonville:
Merchants(T)
Union(T)

Winnebago:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)

Winnetoon:
Merchants(T)
Watson

Winside:
Independent Tr.(T)
Merchants(T)
(Cont. next column)

Union(T)
Watson

Winslow:
Union(T)
Watson(T)

Wisner:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson

Wolbash:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)

Woodlake:
Merchants(T)
Union(T)
Watson(T)

Woodlawn:
Independent Tr.(T)
Merchants(T)
Union

Wood River:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson

Woodville:
Watson

Wymore:
Independent Tr.(T)
(Cont. next column)

Merchants(T)
On-Time(T)
Union(T)
Watson

Wynot:
Union(T)

Wyoming:
Merchants(T)
Union(T)
Watson

York:
Independent Tr.(T)
Merchants(T)
On-Time(T)
Union(T)
Watson(T)

Yutan:
Union(T)

[fol. 2491] EXHIBIT No. 5

Kinner

DRIVERS DAILY MANIFEST FOR PICKUPS

	Shipper	Consignee	Destination	Weight
12/ 3	Conklin	Winpower	Newton	8500
12/ 5	Shum		Des Moines	9000
12/ 6	J. I. Hay		Des Moines	22,000
12/10	Midwest Frt.	J. Deere	Des Moines	26,000
12/12	Calumet Iron		Topeka	34,000
12/14	Sherwin Wms.		Newton	7,400
12/15	Conklin		Newton	7,500
12/20	Scheffler		Topeka	20,000

THE ROCK ISLAND MOTOR TRANSIT COMPANY

[fol. 2492] EXHIBIT No. 6

Kinner

DRIVERS DAILY MANIFEST FOR PICKUPS

	Shipper	Consignee	Destination	Weight
1/14	Security Ctge.		Des Moines	7,600
	Saginaw		K.C.	7,800
1/15	Security Ctge.		D. M.	5,600
1/16	Zeffren		D. M.	22,000
1/18	U. S. Rubber		I. C.	6,600
1/18	Cont. Can		Trenton, Mo.	8,500
1/21	Consolidated		D. M.	8,200
1/21	Zeffren		D. M.	22,000
1/21	Terml. Trans.		Fairfield	5,600
1/21	Columbia Pipe		Grinnell	8,700
1/25	Sinclair		Mitchellville	28,000
1/28	Burnside Mtr.		W. D. M.	17,000
1/28	Clipper City		Newton	8,700
1/30	Folson		Ia. City	27,000
1/31	Saginaw Tfr.		Pleasant Valley	10,000

[fol. 2493] EXHIBIT No. 7

Kinner

DRIVERS DAILY MANIFEST FOR PICKUPS

	Shipper	Consignee	Destination	Weight
2/14	Folson		Newton	6,500
2/14	N'walk		D. M.	13,000
2/15	Elect. Stge.		Ottumwa	8,500
2/15	Central Motor		D. M.	8,001
2/19	Indpls. Fding.		Eddyville	7,700
2/20	Fedl. Truck		Mnpls	7,800
2/20	McNamara		Clinton	6,200
2/25	Ryerson Steel		R. C.	20,000
2/25	Amer. Box		Mpls.	8,000
2/26	Link Belt		D. M.	7,000
2/27	Clayton Mark		Newton	10,000
2/28	Central Steel		Ottumwa	6,700
2/29	Clipper City		Griswold	7,000
3/ 3	Midwest Frt.		D. M.	11,000
3/ 4	Armstrong Co.		Pella	20,000

THE ROCK ISLAND MOTOR TRANSIT COMPANY

[fol. 2495] EXHIBIT No. 9

(See Opposite) ☞

Exhibit 9

Average Haul in Miles
1944 - 1950

Comparison of Average Haul of
Representative Midwestern Trucking Companies*
Chicago, Rock Island & Pacific Railroad
Company - All Cars.
Rock Island Motor Transit Company - All
Freight Handled.

Legend:

——— Composite Figures Representative
Midwestern Trucking Companies*

— — — Average Miles Per Ton - CRI&P Rr.
Co. - All Cars.

— — — Rock Island Motor Transit Co. -
All Freight Handled.

*Bos Truck Lines, Inc.
Merchants Motor Freight, Inc.
Des Moines Transp. Co., Inc.
Red Ball Transfer Co.
Ringsby Truck Line, Inc.
Iowa-Nebr. Transp. Co., Inc.
Brady Motor Freight
Watson Bros. Transp. Co., Inc.
Western Transp. Co.

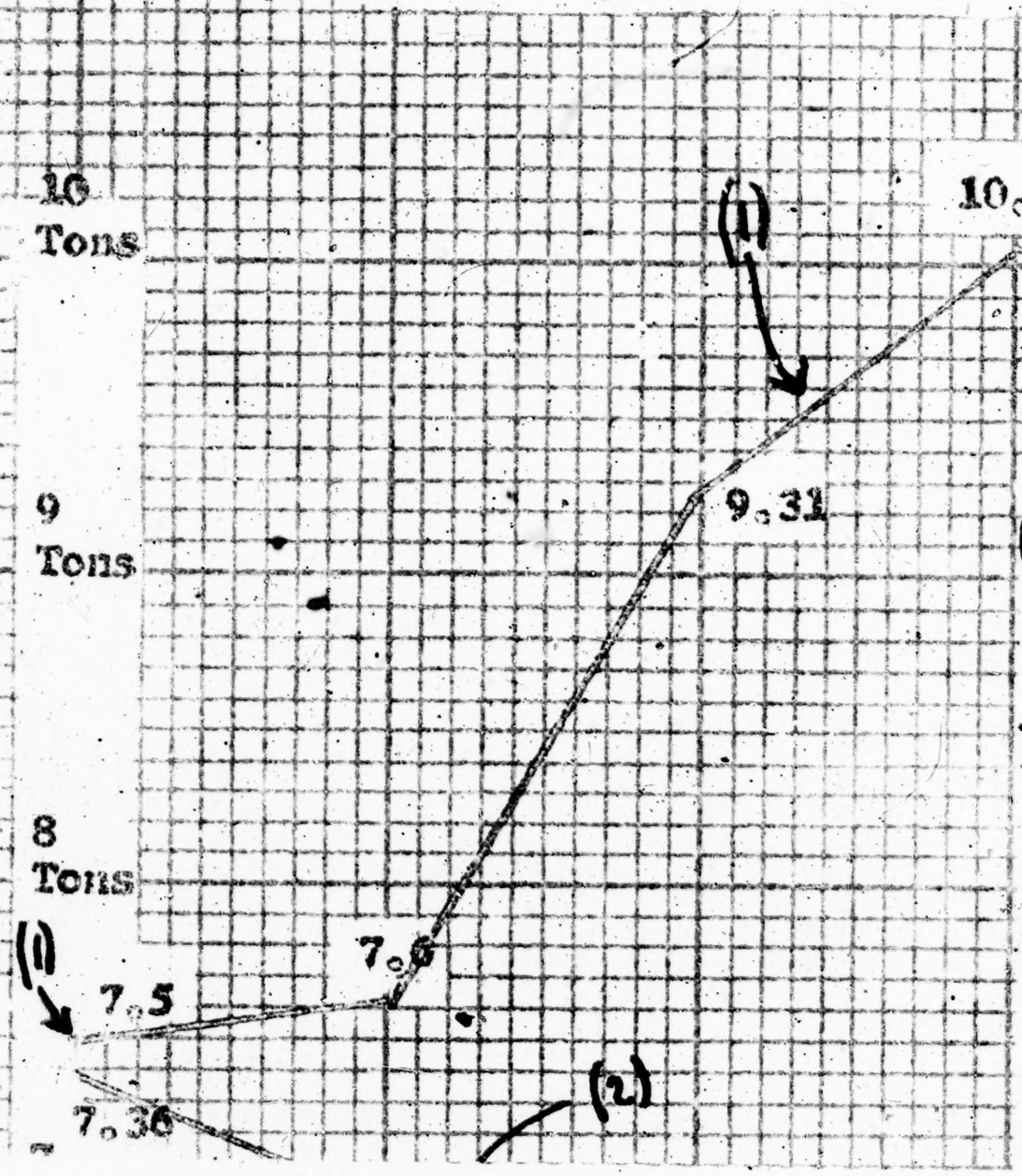
[fol. 2496] EXHIBIT No. 10

(See Opposite) ☞

Exhibit 40

Average Load in Tons
1944 - 1950

Comparison of Average Load in Tons of:
Representative Midwestern Trucking Companies*
Rock Island Motor Transit Co. - All Freight Handled



Legend:
(1) Composite figures Representative Midwestern Trucking Companies

(2) Rock Island Motor Transit Co. All Freight Handled

*Bos Truck Lines, Inc.
Merchants Motor Freight, Inc.
Des Moines Transp. Co., Inc.
Red Ball Transfer Co.
Ringsby Truck Lines, Inc.
Iowa-Nebr. Transp. Co., Inc.
Brady Motor Freight
Watson Bros. Transp. Co., Inc.

[fol. 2497] EXHIBIT No. 11

THE ROCK ISLAND MOTOR TRANSIT COMPANY
Balance Sheet Statement
January 31, 1952

ASSETS

CURRENT ASSETS:

1000 — Cash		$ 237,064.24
1020 — Working Funds		5,325.00
1043 — Miscellaneous Special Deposits		10,440.80
1100 — Receivable from Affiliated Companies		289,565.42
1120 — Accounts Receivable, Agents, Customers & Interline		69,003.42
1130 — Accounts Receivable — Other		2,313.77
1170 — Prepayments		123,579.48
1180 — Material and Supplies		97,360.43
Total Current Assets		$ 834,652.56

TANGIBLE PROPERTY:

1200 — Carrier Operating Property		$1,776,378.96
Less:		
Reserve for Depreciation		871,783.29
Total Tangible Property		$ 904,595.67

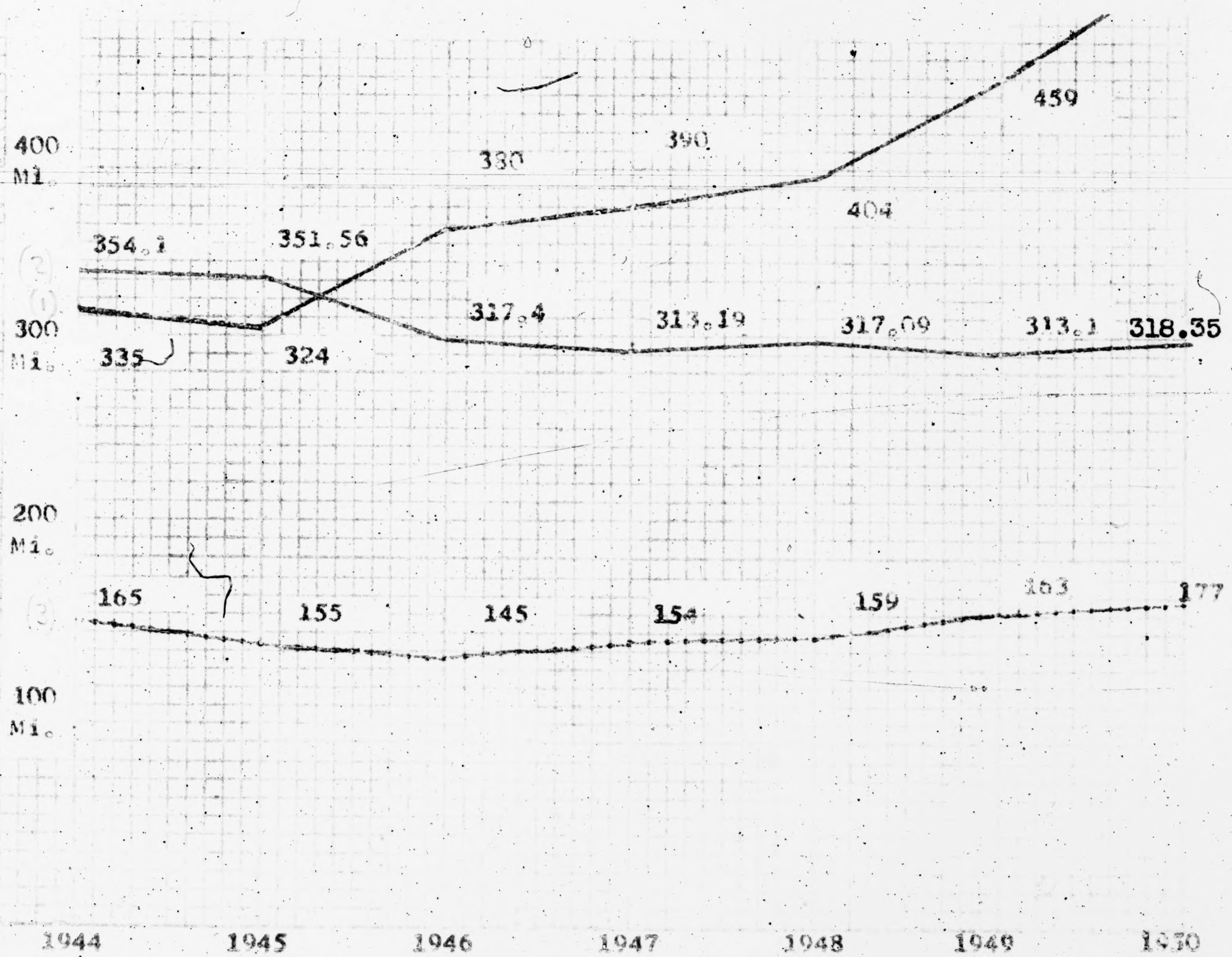
INTANGIBLE PROPERTY:

1500 — Organization Franchise and Permits	$	32,814.47
1550 — Other Intangible Property		156,037.36
	$	188,851.83
Less:		
Reserve for Amortization		97,215.88
Total Intangible Property	$	91,635.95

INVESTMENTS, SECURITIES AND ADVANCES:		
1600 — Investments & Advances — Associated Companies	$	500.00
1650 — Other Investments and Advances		1,053.20
Total Investments, Securities and Advances	$	1,553.20
DEFERRED DEBITS:		
1890 — Other Deferred Debits	$	26,182.43
TOTAL ASSETS		$1,858,619.81

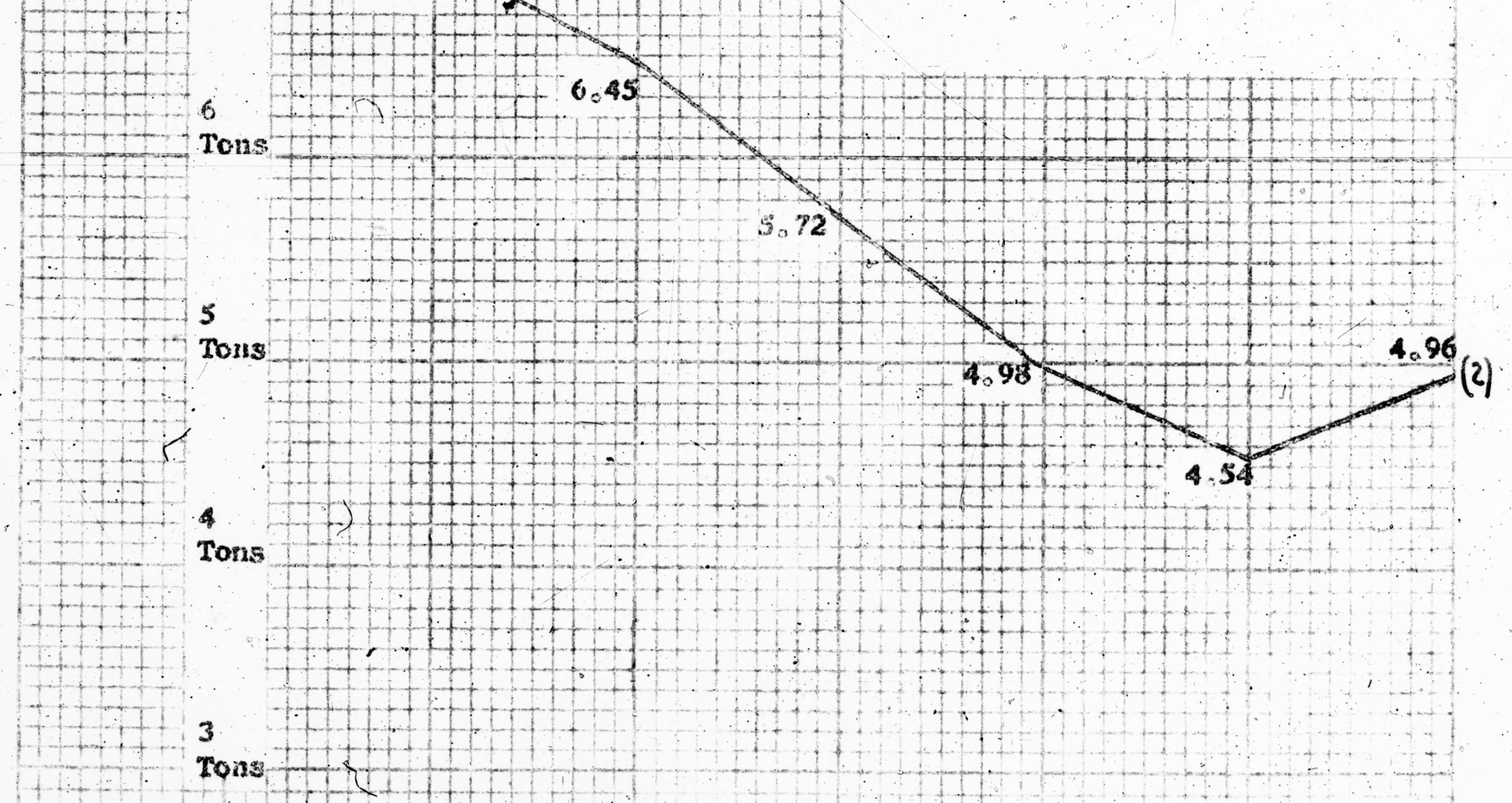
LIABILITIES

CURRENT LIABILITIES:		
2030 — Payable to Affiliated Companies	$	3,986.24
2050 — Accounts Payable		319,669.40
2070 — Wages Payable		114,208.43
2090 — C.O.D.'s Unremitted		5,247.39
2120 — Taxes Accrued		18,311.73
2150 — Interest Accrued		1,794.10
Total Current Liabilities	$	463,217.29
ADVANCES PAYABLE:		
2200 — Advances Payable — Associated Companies	$	873,527.53
EQUIPMENT & OTHER LONG TERM OBLIGATIONS:		
2360-B — Other Long Term Obligations	$	250,000.00
DEFERRED CREDITS:		
2450 — Other Deferred Credits	$	470.46


400 Mi.
300 Mi.
200 Mi.
100 Mi.
354.1
351.56
330
390
459
404
317.4
313.19
317.09
313.1
318.35
335
324
165
155
145
154
159
163
177
1944
1945
1946
1947
1948
1949
1950

RESERVES:	
2680 — Injuries, Loss and Damage Reserve	$ 21,458.24
2690 — Other Reserves	182.00
Total Reserves	$ 21,640.24
CAPITAL STOCK:	
2710 — Common Capital Stock	$ 100,000.00
UNAPPROPRIATED SURPLUS:	
2930 — Earned Surplus	$ 149,764.29
TOTAL LIABILITIES	$1,858,619.81

Office of General Auditor
Chicago, March 3, 1952
hec-mc


6
Tons
5
Tons
4
Tons
3
Tons
6.45
5.72
4.98
4.54
4.96
(2)

TERMINAL COST SURVEY
DES MOINES MOTOR CARRIERS
JANUARY 29 TO FEBRUARY 3, 1951, INC.

	Rock Island Motor	Des Moines Trans.	Watson Bros.	Bruce Motor Freight	Burlington Transp. Co.	Bruce Transfer	Total Participating Carriers
Platform employees:							
Hours	2,454	2,102	1,355	717	655	543	7,826
Wages	$3,574.99	3,005.58	2,062.20	1,179.13	954.20	882.44	11,658.54
Pickup and Delivery:							
Less than truckload:							
Hours	1,185½	871	540	462	318½	278¾	3,655¾
Wages	$1,660.91	1,246.12	745.20	647.19	440.11	401.61	$5,141.14
Truckload:							
Hours	34½	183	90	48	26½	5	387
Wages	$ 48.24	261.47	124.20	66.47	36.72	7.15	544.25
Platform Handling:							
Inbound weight (lbs.)	574,855	1,407,199	1,050,855	597,479	235,377	413,834	4,279,629
Outbound weight (lbs.)	2,172,654	1,452,768	1,625,724	718,618	754,090	704,211	7,428,065
Total	2,747,539	2,859,967	2,676,579	1,316,097	989,467	1,118,045	11,707,694

	Rock Island Motor	Des Moines Trans.	Watson Bros.	Bruce Motor Freight	Burlington Transp. Co.	Bruce Transfer	Total Participating Carriers
Pickup and Delivery:							
Less than truckload weight (lbs.)	1,769,751	1,922,870	946,721	1,154,479	631,260	678,886	7,103,967
Truckload weight (lbs.)	221,669	1,758,134	511,145	395,950	180,854	21,537	3,089,289
Platform — pounds per man hour	1,120	1,361	1,975	1,836	1,510	2,059	1,496
Platform — cost per cwt.	13.¢	10.5¢	7.7¢	9.¢	9.6¢	7.9¢	10¢
Pickup and delivery — LTL pounds per man hour	1,493	2,208	1,753	2,499	1,982	2,435	1,943
LTL cost per cwt.	9.4¢	6.5¢	7.9¢	5.6¢	7¢	5.9¢	7.2¢
LTL number stops	2,218	1,963	1,002	843	744	697	7,467
LTL average weight per stop	798	980	945	1,369	848	974	951
TL pounds per man hour	6,425	9,607	5,679	8,249	6,825	4,307	7.982
TL cost per cwt	2.2¢	1.5¢	2.4¢	1.7¢	2.¢	3.3¢	1.8¢
TL number stops	16	84	23	21	9	2	155
TL average weight per stop	13,854	20,930	22,224	18,855	20,095	10,768	19,931

[fol. 2499]

EXHIBIT No. 14

THE ROCK ISLAND MOTOR TRANSIT COMPANY
PROFITS OR LOSSES BEFORE INCOME TAX
YEARS 1950, 1951 AND JANUARY AND FEBRUARY, 1952

	1950		1951		1952	
	Month	Year to Date	Month	Year to Date	Month	Year to Date
January	*$29,018.16*	*$29,018.16*	*$10,184.93*	*$10,184.93*	*$35,563.61*	*$35,563.61*
February	*28,176.39*	*57,194.55*	*572.88*	*10,757.81*	*27,298.08**	*62,861.69**
March	13,798.36	*43,798.36*	*15,792.46*	*26,550.27*		
April	9,411.73	*33,984.46*	11,717.67	*14,832.60*		
May	15,053.11	*18,931.35*	19,411.85	4,579.25		
June	14,443.37	*4,487.98*	7,289.98	11,869.23		
July	2,449.73	*2,038.25*	*12,850.01*	*980.78*		
August	37,503.29	35,465.04	12,609.60	11,628.82		
September	30,589.85	66,054.89	*16,304.24*	*4,675.42*		
October	48,544.40	114,599.29	10,381.27	5,705.85		
November	46,668.05	161,267.34	*12,735.32*	*7,029.47*		
December	*680.92*	160,586.42	*51,552.53*	*58,582.00*		

Italic figures denote losses.
* Estimated.

[fol. 2500] EXHIBIT No. 15

Page 1

THE ROCK ISLAND MOTOR TRANSIT COMPANY

Recapitulation of Total Gross Revenues Earned on Motor Carrier Traffic Originating at Terminal Points Listed. Total Revenues, Interstate and Intrastate, are Shown for the Comparative Periods Indicated.

	Sept. 1, 1950 Oct. 31, 1950	Sept. 1, 1951 Oct. 31, 1951	Amount of Change	Percent of Change
Chicago	141,841.30	88,618.37	*53,222.93*	*37.5*
Rock Island-Moline	12,289.61	6,883.15	*5,406.46*	*44.0*
Davenport	39,948.12	30,820.58	*9,127.54*	*22.8*
Cedar Rapids	18,720.21	17,099.61	*1,620.60*	*8.7*
Des Moines	79,060.19	75,280.93	*3,779.26*	*4.8*
Omaha	20,330.79	12,756.99	*7,573.80*	*37.3*
	312,190.22	231,459.63	*80,730.59*	*25.9*

	Nov. 1, 1950 Dec. 31, 1950	Nov. 1, 1951 Dec. 31, 1951	Amount of Change	Percent of Change
Chicago	105,979.67	76,677.90	*29,301.77*	*27.6*
Rock Island-Moline	12,517.13	6,405.61	*6,111.52*	*48.8*
Davenport	35,312.32	30,744.78	*4,567.54*	*12.9*
Cedar Rapids	16,761.27	15,409.76	*1,351.51*	*8.1*
Des Moines	68,386.14	63,615.06	*4,771.08*	*7.0*
Omaha	19,501.14	10,771.96	*8,729.18*	*44.8*
	258,457.67	203,625.07	*54,832.60*	*21.2*

	Jan. 1, 1951 Feb. 28, 1951	Jan. 1, 1952 Feb. 29, 1952	Amount of Change	Percent of Change
Chicago	138,407.36	89,647.90	*48,759.46*	*35.2*
Rock Island-Moline	11,966.89	6,439.78	*5,527.11*	*46.2*
Davenport	36,718.51	31,807.27	*4,911.24*	*13.4*
Cedar Rapids	16,225.03	15,644.44	*580.59*	*3.6*
Des Moines	75,433.19	71,488.60	*3,944.50*	*5.2*
Omaha	19,941.79	12,406.97	*7,534.82*	*37.8*
	298,692 68	227,434.96	*71,257.72*	*23.9*

Note: Italic figures indicate decrease.

[fol. 2501]

Page 2

THE ROCK ISLAND MOTOR TRANSIT COMPANY

Comparative Statement of Motor Carrier Revenues on Freight Originating at Chicago, Illinois Destined to Selected Points, during Periods Indicated.

To:	Sept. 1, 1950 Oct. 31, 1950	Sept. 1, 1951 Oct. 31, 1951	Amount of Change	Percent of Change
Des Moines	$30,166.99	14,402.17	*$16,764.82*	*55.6*
Cedar Rapids	5,866.99	3,496.92	*2,370.07*	*40.4*
Iowa City	6,659.89	4,476.06	*2,183.83*	*32.8*
Tri Cities	11,299.41	10,946.91	*352.50*	*3.1*
Newton	4,071.44	1,787.91	*2,283.53*	*56.1*
Grinnell	1,919.66	1,430.00	*189.66*	*25.5*
Atlantic	1,526.63	1,218.90	*307.73*	*20.2*
Omaha	5,020.65	–	*5,020.65*	*100.0*
Kansas City	12,897.62	8,842.18	*1,055.44*	*31.4*
Twin Cities	4,190.25	2,485.34	*1,704.91*	*40.7*

To:	Nov. 1, 1950 Dec. 31, 1950	Nov. 1, 1951 Dec. 31, 1951	Amount of Change	Percent of Change
Des Moines	$20,429.13	13,757.62	*6,671.51*	*32.7*
Cedar Rapids	4,473.90	3,290.16	*1,183.74*	*26.5*
Iowa City	4,769.64	3,910.64	*859.00*	*18.0*
Tri Cities	9,906.24	8,711.12	*1,195.12*	*12.1*
Newton	3,929.66	2,112.85	*1,816.81*	*46.2*
Grinnell	1,173.66	884.62	*289.04*	*24.6*
Atlantic	1,131.79	868.61	*263.18*	*23.2*
Omaha	3,688.08	–	*3,688.08*	*100.0*
Kansas City	9,304.60	8,833.83	*470.77*	*5.0*
Twin Cities	3,236.28	2,016.72	*1,219.56*	*37.7*

To:	Jan. 1, 1951 Feb. 28, 1951	Jan. 1, 1952 Feb. 29, 52	Amount of Change	Percent of Change
Des Moines	25,267.30	18,222.21	*7,045.09*	*27.9*
Cedar Rapids	6,184.75	3,946.40	*2,238.35*	*36.2*
Iowa City	5,298.69	4,363.79	*934.90*	*17.6*
Tri Cities	11,163.53	10,211.82	*951.71*	*8.5*
Newton	5,158.90	1,887.71	*3,271.19*	*63.4*
Grinnell	1,556.87	1,771.32	214.45	13.8
Atlantic	1,628.80	1,088.21	*540.59*	*33.2*
Omaha	7,159.40	–	*7,159.40*	*100.0*
Kansas City	17,329.52	9,273.92	*8,055.60*	*46.5*
Twin Cities	4,215.31	2,364.97	*1,850.34*	*43.9*

Note: Italic figures indicate decrease.

[fol. 2502]

THE ROCK ISLAND MOTOR TRANSIT COMPANY

Comparative Statement of Motor Carrier Revenues on Freight Originating at Rock Island and Moline, Illinois, Destined to Selected Points, during Periods Indicated.

To:	Sept. 1, 1950 Oct. 31, 1950	Sept. 1, 1951 Oct. 31, 1951	Amount of Change	Percent of Change
Des Moines	$ 1,196.44	$ 874.96	*321.48*	*26.9%*
Cedar Rapids	1,024.27	665.10	*359.17*	*35.1*
Iowa City	688.63	609.67	*78.96*	*11.5*
Newton	464.40	164.18	*300.22*	*64.6*
Grinnell	126.27	113.28	*12.99*	*10.3*
Atlantic	31.14	25.60	*5.54*	*17.8*
Omaha	2,485.12	–	*2,485.12*	*100.0*
Kansas City	9.25	290.95	281.70	3045.4
Twin Cities	48.94	8.76	*40.18*	*8.21*

To:	Nov. 1, 1950 Dec. 31, 1950	Nov. 1, 1951 Dec. 31, 1951	Amount of Change	Percent of Change
Des Moines	$ 1,165.99	$ 1,303.48	137.49	11.8%
Cedar Rapids	771.64	562.13	*209.51*	*27.2*
Iowa City	698.27	318.54	*379.73*	*54.4*
Newton	417.71	188.74	*228.97*	*54.8*
Grinnell	65.62	55.51	*10.11*	*15.4*
Atlantic	84.03	4.15	*79.88*	*95.1*
Omaha	3,491.20	–	*3,491.20*	*100.0*
Kansas City	–	172.47	172.47	–
Twin Cities	–	45.06	45.06	–

To:	Jan. 1, 1951 Feb. 28, 1951	Jan. 1, 1952 Feb. 29, 1952	Amount of Change	Percent of Change
Des Moines	$ 1,075.97	$ 1,175.80	99.83	9.3%
Cedar Rapids	798.56	428.30	*320.26*	*46 4*
Iowa City	791.53	493.03	*298.50*	*37.7*
Newton	313.68	278.22	*35.46*	*11.3*
Grinnell	93.56	79.73	*13.83*	*14.8*
Atlantic	57.75	58.48	.73	1.3
Omaha	1,910.29	–	*1,910.29*	*100.0*
Kansas City	191.05	122.82	*68.23*	*35.7*
Twin Cities	9.68	36.55	26.87	277.5

Note: Italic figures indicate decrease.

[fol. 2503]

THE ROCK ISLAND MOTOR TRANSIT COMPANY

Comparative Statement of Motor Carrier Revenues on Freight Originating at Davenport, Iowa Destined to Selected Points, during Periods Indicated.

To:	Sept. 1, 1950 Oct. 31, 1959	Sept. 1, 1951 Oct. 31, 1951	Amount of Change	Percent of Change
Chicago	459.49	1,973.63	1,514.14	329.5
Cedar Rapids	5,556.47	4,470.83	*1,085.64*	*19.5*
Des Moines	8,751.03	7,579.62	*1,171.41*	*13.4*
Omaha	1,011.63	–	*1,011.63*	*100.0*
Twin Cities	522.34	478.09	*44.25*	*8.5*
Kansas City	858.58	522.49	*336.09*	*39.1*

To:	Nov. 1, 1950 Dec. 31, 1950	Nov. 1, 1951 Dec. 31, 1951	Amount of Change	Percent of Change
Chicago	525.18	2,480.14	1,954.96	372.2
Cedar Rapids	4,583.02	5,301.98	718.96	15.7
Des Moines	7,300.21	6,474.41	*825.80*	*11.3*
Omaha	873.56	–	*873.56*	*100.0*
Twin Cities	778.72	651.54	*127.18*	*16.3*
Kansas City	1,990.68	822.89	*1,167.79*	*58.7*

To:	Jan. 1, 1951 Feb. 28, 1951	Jan. 1, 1952 Feb. 29, 1952	Amount of Change	Percent of Change
Chicago	309.36	2,476.26	2,166.90	700.4
Cedar Rapids	4,927.15	4,417.08	*510.07*	*10.4*
Des Moines	7,905.26	7,534.05	*371.21*	*4.7*
Omaha	764.34	–	*764.34*	*100.0*
Twin Cities	833.82	711.25	*122.57*	*14.7*
Kansas City	956.11	1,513.05	556.94	58.3

Note: Italic figures indicate decrease.

[fol. 2504] Page 5

THE ROCK ISLAND MOTOR TRANSIT COMPANY

Comparative Statement of Motor Carrier Revenues on Freight Originating at Cedar Rapids, Iowa Destined to Selected Points, during Periods Indicated.

To:	Sept. 1, 1950 Oct. 31, 1950	Sept. 1, 1951 Oct. 31, 1951	Amount of Change	Percent of Change
Chicago	$ 598.79	745.26	$146.47	24.5
Omaha	543.16	365.43	*177.73*	*32.7*
Des Moines	3,758.38	4,526.59	768.11	20.4
Tri Cities	4,445.31	4,061.54	*383.77*	*8.6*
Twin Cities	97.53	44.85	*52.68*	*54.0*
Kansas City	1,388.08	690.83	*697.25*	*50.2*

To:	Nov. 1, 1950 Dec. 31, 1950	Nov. 1, 1951 Dec. 31, 1951	Amount of Change	Percent of Change
Chicago	$ 739.02	586.84	*152.18*	*20.6*
Omaha	239.41	409.99	170.58	71.3
Des Moines	3,291.36	3,405.04	113.68	3.5
Tri Cities	4,035.69	3,599.18	*436.51*	*10.8*
Twin Cities	52.36	56.09	3.73	7.1
Kansas City	1,334.07	773.55	*560.52*	*42.0*

To:	Jan. 1, 1951 Feb. 28, 1951	Jan. 1, 1952 Feb. 29, 52	Amount of Change	Percent of Change
Chicago	$ 646.66	581.72	*64.94*	*10.0*
Omaha	276.90	334.58	57.68	20.8
Des Moines	3,795.58	4,138.20	342.62	9.0
Tri Cities	3,265.07	3,358.02	92.95	2.8
Twin Cities	32.57	53.27	20.70	63.6
Kansas City	1,408.43	607.71	*800.72*	*56.9*

Note: Italic figures indicate decrease.

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THE ROCK ISLAND MOTOR TRANSIT COMPANY

Comparative Statement of Motor Carrier Revenues on Freight Originating at Des Moines, Iowa, Destined to Selected Points, during Periods Indicated.

To:	Sept. 1, 1950 Oct. 31, 1950	Sept. 1, 1951 Oct. 31, 1951	Amount of Change	Percent of Change
Omaha	3,051.40	2,193.21	*858.19*	*28.1*
Tri Cities	8,210.44	7,411.10	*799.34*	*9.7*
Chicago	6,087.32	4,461.72	*1,625.60*	*26.7*
Cedar Rapids	11,770.60	11,738.02	*32.58*	*.3*

To:	Nov. 1, 1950 Dec. 31, 1950	Nov. 1, 1951 Dec. 31, 1951	Amount of Change	Percent of Change
Omaha	1,705.64	2,179.84	474.20	27.8
Tri Cities	8,069.36	7,288.79	*780.57*	*9.7*
Chicago	5,925.29	4,688.88	*1,236.81*	*20.9*
Cedar Rapids	10,926.04	10,891.35	*34.69*	*.3*

To:	Jan. 1, 1951 Feb. 28, 1951	Jan. 1, 1952 Feb. 29, 1952	Amount of Change	Percent of Change
Omaha	2,332.62	2,568.69	236.07	10.1
Tri Cities	9,784.59	8,689.86	*1,094.73*	*11.2*
Chicago	7,491.04	4,638.04	*2,853.00*	*38.1*
Cedar Rapids	11,573.30	11,831.70	258.40	2.2

Note: Italic figures indicate decrease.

THE ROCK ISLAND MOTOR TRANSIT COMPANY

Comparative Statement of Motor Carrier Revenues on Freight Originating at Omaha, Nebraska Destined to Selected Points, during Periods Indicated.

To:	Sept. 1, 1950 Oct. 31, 1950	Sept. 1, 1951 Oct. 31, 1951	Amount of Change	Percent of Change
Des Moines	$ 3,339.75	$ 2,152.23	*$1,187.52*	*35.6%*
Cedar Rapids	591.75	270.53	*321.22*	*54.3*
Iowa City	618.39	184.10	*434.29*	*70.2*
Tri Cities	1,522.30	–	*1,522.30*	*100.0*
Chicago	962.00	–	*962.00*	*100.0*
Newton	652.01	320.05	*331.96*	*50.9*
Grinnell	174.99	186.01	11.02	6.3
Atlantic	1,827.94	1,536.03	*291.91*	*16.0*
Twin Cities	335.35	85.97	*249.38*	*74.4*
Kansas City	18.92	7.01	*11.91*	*62.9*

To:	Nov. 1, 1950 Dec. 31, 1950	Nov. 1, 1951 Dec. 31, 1951	Amount of Change	Percent of Change
Des Moines	$ 3,566.70	$ 1,856.13	*$1,710.57*	*48.0%*
Cedar Rapids	659.76	179.79	*479.97*	*72.7*
Iowa City	351.16	191.74	*159.42*	*45.4*
Tri Cities	1,686.77	–	*1,686.77*	*100.0*
Chicago	1,006.78	–	*1,006.78*	*100.0*
Newton	688.61	170.29	*518.32*	*75.3*
Grinnell	355.92	159.51	*196.41*	*55.2*
Atlantic	1,678.92	1,189.57	*489.35*	*29.1*
Twin Cities	282.18	327.92	45.74	16.2
Kansas City	4.68	13.28	8.60	183.8

To:	Jan. 1, 1951 Feb. 28, 1951	Jan. 1, 1952 Feb. 29, 1952	Amount of Change	Percent of Change
Des Moines	$ 3,935.56	$ 2,210.83	*$1,724.73*	*43.8%*
Cedar Rapids	780.92	226.04	*554.88*	*71.1*
Iowa City	440.39	152.87	*287.52*	*65.3*
Tri Cities	1,806.19	–	*1,806.19*	*100.0*
Chicago	1,060.48	–	*1,060.48*	*100.0*
Newton	421.40	242.81	*178.59*	*42.4*
Grinnell	303.34	63.06	*240.28*	*79.2*
Atlantic	1,817.25	1,284.54	*532.71*	*29.3*
Twin Cities	249.27	149.70	*99.57*	*39.9*
Kansas City	16.35	16.59	*.24*	*1.5*

Note: Italic figures indicate decrease.

[fol. 2506B] EXHIBIT No. 16

THE ROCK ISLAND MOTOR TRANSIT COMPANY

Summary of interstate shipments received from connecting line carriers at Chicago, Illinois, Davenport, Cedar Rapids and Des Moines, Iowa, and Omaha, Nebraska, having destinations at points covered by application during the periods of November and December 1950 and 1951.

In order that the two periods might be placed on a comparable basis, shipments of over 5,000 pounds during November and December 1950, have been eliminated.

	November and December 1950		November and December 1951	
	Number Shipments	Weight	Number Shipments	Weight
Chicago, Illinois	2,140	1,094,920	1,492	662,186
Davenport, Iowa	1,060	502,775	1,001	366,092
Cedar Rapids, Iowa	153	41,718	158	55,702
Des Moines, Iowa	456	134,593	182	45,236
Omaha, Nebraska	216	81,966	90	26,843

[fol. 2507] EXHIBIT No. 17

THE ROCK ISLAND MOTOR TRANSIT COMPANY

Abstract of Shippers Making Shipments From Twin Cities to Various Towns Indicated During the Month of February, 1952

Shipper	Town
Hazel Atlas Glass	Griswold
Hudson Mfg.	Wellman
International Sugar Feed	Walnut
Janney Semple Hill	Marengo, Oxford, Atlantic, Brooklyn, Newton, Casey, Wellman, Colfax, Oakland, Mitchellville, Exira, & Griswold.
Johnson Nut	Newton
Josephine Co.	Wellman
Kiddieline Mfg.	Marengo
Klinkerfues Bros.	Harlan
Liquid Carbonic	Grinnell
Lindsay Bros.	Homestead, Avoca, Oxford, Victor, Harlan & Marengo
Lyons Fish	Harlan
LaSalle Tire	Grinnell
Minnesota Mining & Mfg. Co.	Harlan
Munsingwear	Newton, Grinnell & Oakland
Minnesota Chemical	Wellman
Minnesota Knitting Mills	Grinnell
Mercury Records	Lewis & Grinnell
McKays Co.	Earlham
Mpls. Moline	Oakland & Homestead
Midwestern Color	Newton
Northeast Feed Mill	Neola
Newhouse Paper	Grinnell
National Vitamin	Anita, Wellman, Ladora
N. W. Buyers & Jobbers, Inc.	Kellogg & Audubon
Nathanson Co.	Avoca
Olson Fish	Harlan
Practical Products	Harlan
Johnson Nut & Bolt	Harlan

Shipper	Town
Wyeth, Inc., Hardware	Harlan
Bostitch McClain	Newton, Audubon, Harlan
Paper Calmenson	Harlan
Curtis 1000	Marengo
Central Supply	Marengo, Audubon
Butler Bros.	Audubon
E-Z Sweep	Audubon
International Harvester Co.	All Points that have International distributors
Farwell Ozmun Kirk	Grinnell
Anderson Machine	Grinnell
Bemis Bag	Grinnell
Atwood Coffee	Atlantic
Brotsky & Co.	Colfax
[fol. 2508]	
DeLuxe Check Printers	Boonville
Central Parts Supply	Kellogg
Continental Safety	Newton
Canteen Co.	Newton
Elmar Sales	Newton
City Service Oil	Coralville
Firestone	Oxford, Grinnell, Newton
Fuller Brush	
Lavoris Co.	
Forman Stationery	Colfax
Food Producers	Wellman
Fischer Chocolate & Nut Co.	Atlantic
Fruit & Assembly Whse.	Walcott
Garrott Candy	Harlan
Hilltop Laboratories	Marengo, Audubon, Brooklyn, Durant
Physicians & Hospital Supply	Marengo
Pearson Candy	Coralville
Paper Calmenson	Audubon
Riteform Chair Co.	Newton
American Refrigerator	Harlan
Royal Stationery	Griswold
Schaffer, Inc.	Grinnell
Superior Separator	Oakland

Shipper	Town
Schaffer & Rossum	Minden, Exira
S and M	Harlan
E. B. Sewall	Newton
Tire Retread	Atlantic
20th Century Mfg.	Newton
Western Electric	Mitchellville, Audubon, Atlantic, Colfax, Grinnell.
Wyeth, Inc.	Harlan
Great Lakes Pipe Line	

[fol. 2569] EXHIBIT No. 18

THE CHICAGO ASSOCIATION OF COMMERCE AND INDUSTRY
ONE NORTH LA SALLE STREET
CHICAGO 2, ILLINOIS

Minutes of Meeting
INDUSTRIAL TRAFFIC COUNCIL
Held on March 6, 1952

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PRESENT

S. L. Felton	Acme Steel Company
F. Russell White	Aetna Plywood & Veneer Co.
W. J. Curtis	Admiral Corporation
L. H. Roegner	Armour and Co.
Jos. T. Rollheiser	Armour and Co.
K. W. Ryder	Armour and Co.
Julius H. Gerth	Paul F. Beich Co.
Wm. N. Denk	The Best Foods, Inc.
E. D. Haugh	Bethlehem Steel Company
F. D. Porter	Geo. Birkenstein & Co.
Hazen Foster	Bliss & Laughlin, Inc.
C. Loresch	Booth Fisheries Corp.
John Goble	Boyle-Midway, Inc.
E. M. Carey	E. J. Brach & Sons
R. D. Reeds	E. J. Brach & Sons
H. F. Hanson	Brunswick-Balke-Collender Co.

Alien C. Stone	Brunswick-Balke-Collender Co.
V. Zaccardi	Bunte Brothers
D. R. Macdonald	Butler Brothers
Ralph J. Graffis	Butler Paper Corporations
Geo. A. McElroy	Ceco Steel Products Corporation
J. P. Friel	Central Fibre Products Co.
W. J. Marshall	Chicago Candy Association
Carl A. Walberg	Cities Service Oil Company
W. M. Timmons	The Coca-Cola Company
G. E. Seitter	Corn Products Refining Co.
M. L. McDougall	Crane Co.
Erle K. Theimer	Crane Co.
Earle E. Mathews	Culligan Zeolite Company
John J. Kulbaitis	Curtiss Candy Co.
John H. C. Kirk	Darling & Company
John J. Mengel	Fairbanks, Morse & Company
C. D. Couch	The Glidden Company
A. E. Parker	The Glidden Company
Frank Knees	Hibbard, Spencer, Bartlett & Co.
E. T. Keen	Hotpoint, Inc.
A. A. Diamond	Hyman-Michaels Co.
Hugh Crawford	Johnson & Johnson
Chas. E. Lumpp	Kraft Foods Company
D. W. C. Becker	LaSalle Extension University

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A. G. Brown	Lehigh Portland Cement Co.
E. C. Huebner	Marblehead Lime Company
H. G. Marsh	.....
Arnold J. Larson	Masonite Corporation
G. J. Werner	Motorola, Inc.
F. L. Michener	Perkins Products Company
G. R. Otto	Rathborne, Hair & Ridgway Box Company
J. S. Hardie	Scott, Foresman and Company
C. A. Washer	Sears, Roebuck and Co.
H. B. Spamer	Spiegel, Inc.
R. Webber	Spiegel, Inc.
Robert Ozinga	Sprague Warner Division
Robert C. Stockton	Stewart-Warner Corporation

R. A. Morin	U. S. Gypsum Company
E. A. Ogorek	U. S. Steel Supply Div., U. S. Steel Co.
W. F. Gerleman	Van Cleef Bros., Inc.
T. J. Kessler	Victor Chemical Works
George A. Matz	Walgreen Co.
S. F. Kirby	Montgomery Ward & Co.
W. L. Szaraniec	Wilson Sporting Goods Company
G. R. Gonseth	F. W. Woolworth Company
C. E. Casler	Wyman-Gordon Company
B. G. Leech	Zion Industries, Inc.
Gerald E. Franzen	Chicago Association of Commerce and Industry
A. J. Maurer	Chicago Association of Commerce and Industry
A. H. Schwietert	Chicago Association of Commerce and Industry

R. WEBBER, General Chairman, Presiding

STATUS OF THE REED-BULWINKLE APPLICATIONS: Mr. Craig, Chairman of the committee reported.

In its decision last December on the Section 5a application of the Middle Atlantic Conference the Commission refused to prohibit the Conference from asking for suspension of a tariff filed by member carriers. In the application of the Columbia River Tariff Bureau filed with the Commission, that group sought approval of a provision that would give authority to the manager of the Bureau to ask for suspension of rates published by a member carrier. On February 19, 1952, Division 2 of the Commission denied this application on that and two other grounds. This does not mean that the Bureau cannot ask for a suspension, but it does mean that the Bureau does not have the sanction of a Section 5a agreement to support their position.

In the latest application filed by Central States Motor Freight Bureau their hearing was heard in Chicago, beginning on January 22nd, but that hearing was indefinitely postponed when it was brought out at the hearing that member carriers had not been furnished with a copy of the agreement involved.

[fol. 2511] *REPORT OF THE PROTECTIVE SERVICE COMMITTEE*: Mr. Couch, Chairman of the committee, reported.

Proposal No. 478 of the Middlewest Motor Freight Bureau would amend the application of the present Over-Flow Rule so that it would not apply on perishable commodities. Mr. Couch moved that the Council voice opposition to this proposal. The motion was seconded by Mr. Porter and carried.

REPORT OF THE RATES, RULES AND CLASSIFICATION COMMITTEE (Forwarder Section): Mr. Washer, Chairman of the Committee reported.

S. 2712. This bill, introduced by Senator Magnuson, proposes to amend the definition of the freight forwarder and would require that they prove public convenience and necessity before obtaining a certificate. Passage of this bill would mean that freight forwarders in seeking a new permit or certificate could be opposed by truck lines, rail carriers or the air lines.

S. 2713. Also introduced by Senator Magnuson this bill seeks "to provide more definite standards for determining those entitled to exemption from Part IV of the Act as an association of shippers or a shippers' agent". The bill provides that the Commission in determining whether or not such an association is exempt would consider the following factors: 1. Whether or not the involved activities are actually and substantially competitive with the operations of regulated freight forwarders; 2. Whether they are limited to the handling of a single commodity or of homogeneous commodities; 3. Whether or not the number of persons participating in or benefiting from the activities in question is such as to justify removal of the exemption; and, 4. Whether or not the operations of the person claiming exemption have been such as to constitute unfair or destructive competitive practices within the meaning of the National Transportation Policy. Mr. Jelsma, staff advisor to the Senate on transportation legislation, stated that the purpose of this

bill is to provide a more clear-cut basis for regulating groups in competition with forwarders. Your Committee recommends that the Council oppose S. 2713, and Mr. Washer so moved. Motion was seconded by Mr. Spamer and carried.

REPORT OF LEGISLATIVE COMMITTEE: Mr. Schwietert reported in the absence of Mr. Quasey.

A committee of the National Industrial Traffic League is at the present time studying the various bills affecting transportation introduced during the current session of Congress. A proper consideration of this legislation requires more detailed study than the Council has thus far been able to give these matters. When the National Industrial Traffic League committee has completed its studies, the Council will be in a better position to take any action that is necessary.

REPORT OF THE RATES, RULES AND CLASSIFICATION COMMITTEE (Rail Section): Mr. Felton, Chairman of the Committee, reported.

Illinois Intrastate Rates: The Illinois Commerce Commission approved the Official Territory Ex Parte 175 increase of 9 per cent in lieu of the previously authorized 6

[fol. 2512] per cent. This increase became effective on February 28, on one day's notice.

Cancellation of L.C.L. and Any Quantity Exceptions Ratings in Official, Illinois and Southern Territories: A joint docket of the Southern Freight Association, the General Freight Traffic Committee of the Eastern Railroads and the Illinois Freight Association proposes to cancel all less carload and any quantity exceptions ratings, within Official Classification Territory; within Southern Freight Association Territory; within Illinois Freight Association Territory; between Official Territory, on the one hand, and Southern, Illinois, Western Trunk Line and Southwestern Territories, on the other; between Southern Territory, on the one hand, and Official, Illinois, Western Trunk Line and Southwestern Territories, on the other; between Illinois Territory, on the one hand, and Official, Southern, Western

Trunk Line and Southwestern Territories, on the other. This proposal does not contemplate cancellation of exceptions ratings applying from Chicago to Western Trunk Line Territory, or to Southwestern Territory, said Mr. Felton. This is a subject on which the Council as a group would find it very difficult to take any action, but individual shippers should carefully examine its effect on their commodities and, if necessary, be prepared to defend their exception ratings at the hearing which will be held on March 18th and 19th at Chicago.

Mr. Schwietert commented briefly on two statements that had been prepared and distributed which illustrate the effect of the cancellation of exception ratings on several commodity groups. It was pointed out that while the cancellation of these exceptions would result in increases to nearby points, there would be offsetting reductions on shipments moving for longer distances.

W.T.L. Application E-58-388: This is a carrier proposal to cancel Item 250 of W. T. L. Tariff 271-N and similar items in individual lines issues which restrict the partial unloading of freight moving under executed Section 7 of the Uniform Bill of Lading, said Mr. Felton. Mr. Foster moved that the Council go on record as approving cancellation of the item as proposed by the carriers. Motion was duly seconded and carried.

Modified Rule 10: The Uniform Freight Classification No. 1, published to become effective May 30, 1952, carries forward Rule 10 as it stands in the present Consolidated Freight Classification. As the Docket 28300 class rates will be subject to this new classification, shippers will no longer have the benefit of the modified Rule 10 presently applicable by exceptions to the classification in Southwestern and Western Trunk Line Territory. Shippers of mixed carloads of freight would pay substantially higher charges under the straight Rule 10 as the shipment is billed at the rate for the highest rated article in the mixed carload. The modified Rule 10 provides for assessing charges on the basis of the rate applicable to each individual commodity. Mr. Felton moved that the Council urge the adoption of the modified Rule 10 in the Uniform Freight Classification. The motion was seconded by Mr. Werner and carried.

[fol. 2513] *REPORT OF THE RATES, RULES AND CLASSIFICATION COMMITTEE (Motor Section:* Mr. Lumpp, Chairman of the Committee, reported.

C.S.M.F.B. Docket 15736—Class Rate Adjustment in Tariff 247-H: Your Committee, together with the Motor Committee from the Wisconsin Manufacturers Association, met with Earl Girard on February 15th for the purpose of discussing this proposal. As a result of this meeting, your Committee decided to recommend to the Council that it not oppose an increase in rates in Tariff 247 of 7 per cent, subject to a number of provisions.

Mr. Girard has subsequently amended the original proposal to read as follows:

1. Hold in abeyance any action by the bureau as concerns the $1.50 shipment charge matter covered by Docket No. 15736 until final action is decided upon by all carriers in Central Territory. The Bureau has been informed to this effect.

2. Increase all truckload or volume class rates in the tariff in accordance with recommendation of seven (7%) per cent.

3. Increase all commodity rates, other than commodity rates published for less-than-truckload quantities of less than 10,000 pounds, on the basis of recommendation of seven (7%) per cent. (These are 3rd or 4th Class L. T. L. commodity rates in this tariff.)

4. Increase all less-than-truckload or any quantity class rates and commodity rates of less-than-truckload quantities, other than those subject to a minimum weight of 10,000 pounds or greater, ten (10%) per cent, including the minimum charge per shipment.

As the Chicago-Milwaukee carriers' amended proposal agrees substantially with our original recommendation (the only difference being a 10 per cent increase on L.T.L. or Any Quantity class rates and commodity rates), we recommend that the Council not oppose this amended proposal. All changes in rates and charges are to be published with

an expiration date of six months from the date they become effective.

On motion of Mr. Porter, seconded by Mr. Crawford and carried, the committee's recommendation was adopted.

C.S.M.F.B. Dockets 15777 and 15869—Minimum Charge per Shipment: Docket 15777 proposes that charges for a single shipment under 500 pounds shall not be less than charges resulting from the application of $2.00 plus the Class 55 truckload rate on the first 100 pounds or fraction thereof, and 60 cents plus the Class 55 truckload rate applicable to the additional weight over the first 100 pounds. Docket 15869 provides that the minimum charge for any

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[fol. 2514] shipment less than a capacity load shall be for 200 pounds at the first class rate but in no case shall the charge on a single shipment be less than $2.00. The proposal under Docket 15869 is identical to the rule that was published for the account of several carriers in Central Territory, suspended by the Interstate Commerce Commission and currently applicable for these few carriers because of the expiration of the suspension period. Your committee recommends that the carriers be requested to defer any action on these dockets until final decision by the carriers on Docket 15268 and decision by the Interstate Commerce Commission in MC-C-543, the Small Shipments Case, as well as the Minimum Charge Per Shipment Cases.

On motion of Mr. Washer, seconded by Mr. Crawford and carried, the committee was instructed to oppose these dockets.

C.S.M.F.B. Dockets 15784, 15789-E and 15790: These dockets would establish provisions in various tariffs to provide relief for carriers required to reduce gross weight of vehicles moving on highways of the State of Michigan during Frost Law periods. Your committee recommends opposition to these dockets as the Council has long been opposed to the establishment of any extra charges or arbitraries over and above the normal application of the through rate.

Mr. Porter moved that the Council oppose these dockets. The motion was seconded by Mr. Crawford and carried.

C.S.M.F.B. Docket 15785—Pick-Up and Delivery Service Rule: This docket proposes to amend Tariff 500 by adding the following to the Pick-Up and Delivery Service Rule shown therein: Whenever a shipper or consignee requests delivery to a receiving point not directly accessible to trucks, an extra charge of 25 cents per 100 lbs. will be made with a minimum charge of $1.00 per shipment, except, if inside delivery to other than the ground floor is inaccessible to trucks, such delivery, if requested, will be made at an extra charge of 35 cents per 100 lbs., minimum $1.50.

On motion of Mr. Couch, duly seconded and carried, the committee was directed to ask that this subject be deferred for further study by the Council, and, also that the carriers clarify the term 'inaccessible'.

C.S.M.F.B. Dockets 15814 and 15850—Class and Commodity Rate Adjustments: Docket 15814 would amend all class tariffs by establishing a new column of class rates to apply on shipments weighing less than 2,000 lbs., such rates to be 30 cents per 100 pounds higher than the present Column B (5000 lbs., or more) rates. Docket 15850 proposes to increase all class and commodity rates in C.S.M.F.B. standard tariffs by 20 per cent. Your committee recommends opposition to these dockets for the reason that Docket 15819-E proposing a 15 per cent increase is now under consideration by the carriers.

On motion of Mr. Porter, seconded by Mr. Kirk and carried, the recommendation of the committee was adopted.

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[fol. 2515] *C.S.M.F.B. Docket 15833—Stop-Off Charge:* This docket proposes to amend Item 220 of Tariff 500 by increasing the charge for shipments stopped for partial loading or unloading from $10.00 for each stop, to $12.89 for each stop, exclusive of initial pick-up or final delivery stop. As no justification has been furnished for adopting the charge presently applicable via rail carriers, your committee recommends opposition to this docket.

On motion of Mr. Porter, duly seconded and carried, the recommendation of the committee was adopted.

C.S.M.F.B. Docket 15834—Minimum Charge Rule: This docket proposes to amend applicable tariffs by increasing the minimum charge as follows: On traffic subject to single-line haul, the minimum charge will be for 100 pounds at the First Class rate, but not less than $2.50. On traffic subject to joint-line hauls, the minimum charge will be for 100 pounds at the First Class rate, but not less than $3.50. Your committee recommends opposition to this docket because it would not only increase the minimum charge, but would establish different minimum charges for single-line and joint-line hauls.

On motion of Mr. Porter, seconded by Mr. Crawford and carried, the committee's recommendation was adopted.

C.S.M.F.B. Docket 15268—$1.50 Surcharge and Docket 15819-E—15% Increase: Docket 15268 which has been approved by the Central Committee, was the subject of a conference between the carriers and the Central Territory Traffic Conference this morning. The 15 per cent general increase covered by Docket 15819-E which has been approved "in principle" by the Standing Rate Committee, was a subject of the same shipper-carrier meeting. The carriers indicated that the total increase resulting from the last labor contract revision amounts to a 22 per cent increase in their labor costs. They also indicate that the operating ratio for a group of 46 study carriers for January 1952, was 94.2 compared with 93.3 for January 1951. Traffic studies indicate the number of shipments, weight and revenue for various sized shipments as follows:

Size of Shipment	Number of Shipments	Weight	Revenue
All Minimum Charge Shipments	35.7%	1.9%	5.1%
0 to 5,000 pounds (Other than Minimum Charge Shipments)	57.3%	25.9%	40.7%
Over 5,000 pounds	7 %	72.2%	54.2%

The carriers indicated that the application of the $1.50 surcharge would give them about an 8 per cent increase

in total revenue. In connection with an across-the-board increase, carriers emphasized that a 5 per cent increase would result in only a 3 per cent increase in total revenue. Mr. Porter moved that the Motor Committee study the carriers' figures and recommend to the Council the best solution to the carriers' proposal for both a surcharge on small shipments and a general increase. The motion was

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[fol. 2516] seconded and carried. (Secretary's note—The Central Territory Traffic Conference representatives, in a meeting held after the joint shipper-carrier meeting, decided not to oppose an increase in the minimum charge as proposed in Docket 15268 on shipments less than 5,000 pounds providing for the charge accruing at the applicable rate and at the actual weight (but not less than 100 pounds) plus $1.50, with the understanding that this increase in the minimum charge basis is to be in lieu of any general increase in rates. On March 11, 1952, the Board of Directors of the Central States carriers approved this basis which will supersede the present minimum charge bases as well as other proposals before the carriers' Standing Rate Committee for revised minimum charges or general increases.)

Eastern Central Docket SR-3783—15 Per Cent Increase: This docket, to be considered by the General Committee at Cleveland on March 19, proposes to increase all rates, arbitraries, and charges published in Tariff Nos. 10-A, 11-A, 12-F, 14-H (except Items 1520 to 4360), 15-I, 19-G, 24-A by 15 per cent. Reported for information only.

Central and Southern Docket 3845—9 Per Cent Increase: This proposal to increase all rates and charges by 9 per cent was heard by the North-South Appeal Committee on February 20, 1952. A letter voicing opposition to this increase was mailed to the committee in time for their consideration. Reported for information only.

M.W.M.F.B. Docket 11255—$1.50 Surcharge: This proposal that the minimum charge on all shipments be at the charge based on the applicable rate at actual weight or truckload minimum weight, plus $1.50, failed of adoption by the Standing Rate Committee. The General Rate Com-

mittee, meeting on February 28 and 29, sustained the recommendation of the Standing Rate Committee. Reported for information only.

M.W.M.F.B. Proposal 249—11 Per Cent Increase: This proposal to increase all rates and charges by 11 per cent was heard by the Standing Rate Committee which has recommended that an increase of 10% be published on all rates in Tariff No. 4 only. (Tariff No. 4 does not involve Chicago.) The proposal as to all other tariffs is still under consideration. In accordance with instructions of the Council, opposition to this proposal was expressed in a letter sent to the committee. Reported for information only.

Eastern Central Docket SR-3504: This docket proposes to adjust the class rates in Tariffs 10-A, 11-A, 12-F, and 19-G to reflect rail 28300 scale, including the Ex Parte 175-A 9 per cent increase, down to and including Class 35, making the present Class 35 become Class 27.5 and inserting Classes 32.5 and 30 between Class 35 and Class 27.5 with graduation of not less than one cent. Proposal would also add a twenty cent (20¢) differential to the L.T.L. traffic weighing less than 5,000 lbs. At the October Council meeting the committee was directed to voice opposition to this docket. The proposal was deferred at the last meeting of the General Committee on February 22, 1952, and is being further analyzed by a sub-committee. Reported for information only.

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[fol. 2517] *Eastern Central Dockets SR-3723 to 3727—Minimum Charge:* These dockets proposed to amend various tariffs by establishing a new minimum charge rule providing the basis of 200 pounds at the applicable first class rate with a minimum charge per shipment of $2.00. As the Council actively opposed the identical proposal in Central States tariffs, we also voiced opposition to these dockets. The General Committee has adopted this proposal as amended on the basis of 100 pounds at the first class rate applicable, plus $1.50. We understand that the Central Territory Traffic Conference is meeting with the carriers regarding this proposal. Reported for information only.

M.W.M.F.B. Proposal 374: This proposal would amend tariffs applying between points in Middlewest Territory, also between points in Central States and Middlewest Territories as follows:

(1) Increase all L.T.L. or A.Q. rates by ten (10) per cent; or

(2) Add surcharge of 150 cents to all shipments; or.

(3) Add surcharge of 100 cents to all shipments; or

(4) Add surcharge of 75 cents to all shipments; or

(5) Add surcharge of 50 cents to all shipments; or

(6) Add surcharge of 100 cents to the charges on each shipment determined by multiplying the weight by the rate, with the aggregate to be not less than the minimum charge published in the tariff. This docket was heard by the Standing Rate Committee on February 26, 1952. Reported for information only.

M.W.M.F.B. Proposal 393—Minimum Charge: This proposal would provide a minimum charge per shipment of not less than $2.50 in Middlewest Motor Freight Bureau tariffs which now provide for a lesser amount. This proposal was heard by the Standing Rate Committee on March 4, 1952. Reported for information only.

I. & S. M-3646—Pittsburgh Arbitraries: Supplements published by the Central States Motor Freight Bureau to become effective February 16 name arbitraries ranging from 10 cents to 20 cents per 100 pounds on L.T.L. traffic and from 3 cents to 5 cents per 100 pounds on truckload shipments for pick-up and delivery in the Pittsburgh, Pa., area. These charges were first published to become effective early in 1951, but were suspended by the Interstate Commerce Commission. As this case is still pending, the carriers are permitted to place the charges in effect because of the expiration of the normal suspension period. About 20 motor carriers have excluded themselves from the application of these arbitraries. Reported for information only.

I. & S. M-3929—New York Surcharge: This proceeding embraces suspended tariffs published by several motor carrier bureaus establishing surcharges on traffic moving from

or to points in the State of New York intended to compensate the carriers for added cost resulting from the state's new ton-mile highway use tax. A petition of the various motor carrier rate bureaus involved in this proceeding for vacation of the order of suspension was denied by the Commission. Proceedings involving the legality of the state tax are now before the New York State Appellate Court on appeal. Reported for information only. (Secretary's Note: The New York State Appellate Court has upheld the constitutionality of the highway use tax.)

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[fol. 2518] *Ex Parte Number MC-37—Commercial Zones and Terminal Areas:* In a sixth supplemental report and order in Ex Parte MC-37, Commercial Zones and Terminal Areas, the Commission has determined the limits of terminal areas of motor carriers and freight forwarders within which transportation by motor vehicles in the performance of collection and delivery or transfer service is exempted from truck regulations, with exceptions regarding hours of service and safety. The Commission's order in this proceeding becomes effective April 15, 1952. Reported for information only.

Rock Island Motor Transit Application: Mr. Schwietert reported that Application No. MC-29130, Sub 70 of the Rock Island Motor Transit Company had been set for hearing beginning March 18 in Des Moines, Iowa. The application is for a certificate to handle up to 5,000 pounds from and to points on U. S. Highway No. 6 from Davenport, Iowa, to Omaha, Nebraska. The Applicant is presently the only carrier serving certain points on this route. Rock Island Motor Transit Co. has intimated that their application may be amended to seek authority to handle all traffic over Route 6. After a discussion of the matter, Mr. Couch moved that we not only support the application in its present form, but that we also support it should it be amended to include truckload as well as less-than-truckload traffic. The motion was seconded and carried.

REPORT OF THE EXPORT-IMPORT COMMITTEE: Mr. Parker, Chairman of the Committee, reported.

World Trade Conference: The Chicago World Trade Conference opened today at noon at the Sherman Hotel and will continue through tomorrow. It is sponsored by the Chicago Association of Commerce and Industry and the Export Managers Club of Chicago. The speakers are all practical foreign traders and promise a most interesting program.

Customs Simplification: The House of Representatives passed this measure last fall. Your committee outlined the provisions of this bill in our report of September 6, 1951. The Senate Finance Committee is now considering it. Those of us who do considerable importing should be in favor of it and should express their views to Senators Douglas and Dirksen and possibly to Senator Walter F. George of the Committee.

New Directory: A new 1952 membership directory and port guide has just been issued by the Ocean Freight Agents Association of Chicago. This handy brochure lists the agents by names, telephone numbers, and lines represented. Copies may be obtained through the offices of the Grace Line, 230 N. Michigan Avenue.

Letters of Credit: Mr. Parker called attention to a most interesting discussion on "What is a 'Clean' Bill of Lading?" by Daniel C. Draper. It appears in the I. C. C. Practitioners Journal for February, 1952, and presents the latest views

[fol. 2519] of English, Scottish and American Courts on the question of what notations may appear on ocean bills of lading and still not render them a "foul" bill of lading.

Ocean Rate Increases: The North Atlantic/U.K. Conference has issued a notice of rate increases, effective May 1. The amount of increase will have to be determined by contacting the various carriers.

Export Control: Commencing April 7, exporters must obtain a new document from foreign customers known as an "Import Certificate" which is to be issued by the foreign government concerned. So far, the regulation applies only

to ten Western European Countries—England, France, Holland, Germany, etc. It will replace the present end use statement now required to be furnished by the customer.

REPORT OF THE AIR TRANSPORTATION COMMITTEE: Mr. Stockton, Chairman of the Committee, reported.

Following is a brief outline of the territories covered by several pending airline merger proposals:

Northwest-Capital. From East and Gulf Coast to the Midwest to Seattle-Portland; thence to Alaska, the Aleutians, Tokyo and Korea; also a spur from Seattle and Portland to Hawaii.

Braniff-Mid-Continent. Essentially a north-south system covering the central U. S. from Chicago, Denver and other north central cities to New Orleans; Houston and other Texas cities; then on south to Mexico City, Havana, Balboa and South America.

National-Colonial. North-south system in eastern U. S. from Montreal southward via New York to Miami and the Gulf Coast, plus a spur route to Bermuda from New York and Washington.

Delta-Northeast. These are widely separated systems, with Northeast serving New England and New York City while Delta operates east-west from Miami and Atlanta through the Deep South to Texas cities. Merger is contingent on acquisition of a linking route from the Deep South to New York; since C. A. B. opposes big route shake-ups like this, observers see this merger as contingent on acquisition by Capital of a southern route or a further merger hook-up with a north-south airline like National.

West Coast-Empire. These are local service airlines serving the states of Washington, Oregon and Idaho.

Air Freight Rate Increases: From a recent check with Slick Airways, the Flying Tiger Line, Trans-World Airlines, United Air Lines, American Airlines and one or two

others, we have been informed that they have either filed or are about to file with the Civil Aeronautics Board re-

[fol. 2520] quests for rate increases which will average about 10 per cent and which will range from 7 to 25 per cent. The major portion of these increases, we understand, will be in specific commodities rather than the general commodities and the effective date April 15, 1952.

Braniff Airways, effective April 15, will amend its tariff No. C-1 CAB8 to cancel certain volume rates in the 1000 through 10,000 pound bracket, leaving only 100 pounds northbound direction rates in effect. Braniff Airways proposes to increase their general commodity rates 10 per cent, effective April 15.

REPORT OF THE MAIL AND EXPRESS COMMITTEE: Mr. Kirby, Chairman of the Committee, reported.

MAIL

Public Law 233—Surcharge on purchases of postal cards in quantities of 50 or more: S. 2394—a bill to repeal the present 10 per cent surcharge on purchases of postal cards in quantities of 50 or more has been passed by the Senate and House and sent to the President for signature. The bill will become law effective 10 days after signature.

Public Law 199—Restrictions on size and weight of parcel post shipments: The Postal Service Committee has prepared a questionnaire to be distributed to Association members in the next few days to develop information on the effect on operations of Association members and their recommendations whether the law should be amended or repealed.

Mail Transportation by Motor Vehicles: Effective March 1, the Postal Transportation Service will take over the separation and dispatch of mails to be handled by motor carriers in the Chicago Suburban area.

EXPRESS

Ex Parte 177 Increases in Express Rates: The Illinois Commerce Commission has approved the Ex Parte 177 increase of November 15 in Railway Express rates for application on Illinois intrastate shipments effective on March 11, 1952.

The Interstate Commerce Commission voted not to suspend Railway Express tariffs effective February 26, increasing less carload first and second class charges 6 cents per shipment. The additional charge of 6 cents will not apply on shipments moving on commodity rates.

The Illinois Commerce Commission has scheduled a hearing March 11 at Chicago on the application of the 6 cent increase on intrastate less carload shipments.

SERVICE FEE FOR 1952: Chairman Webber explained that the members are assessed an annual service fee to defray Council expenses such as postage, stationery, etc. For the past several years this fee has been $7.50 annually and the Council has been able to operate on that amount. Mr. Porter moved that the service fee for 1952 continue at $7.50. The motion was seconded by Mr. Crawford, and carried.

Meeting was adjourned at 3:00 P. M.

R. WEBBER, General Chairman

Gerald E. Franzen, Secy.

EXHIBIT No. 19

THE ROCK ISLAND MOTOR TRANSIT COMPANY

Transcript of shipments received from connecting carriers at Chicago, Illinois, during the months of January, February, March and April 1951 covering shipments originally routed via other carriers but given to The Rock Island Motor Transit Company for delivery

Origin Carrier Pro No.	Point of Origin	Point of Destination	Originating Carrier	Original Routing
25208	Milwaukee, Wisc.	Iowa City, Iowa	Advance Transp. Co.	Watson Bros. Transp.
38342	"	"	"	Western Transp. Co.
869877	Birmingham, Mich.	"	Geo. F. Alger Co.	Watson Bros. Transp.
647905	Cleveland, O.	Newton, Iowa	"	Des Moines Transp.
9-149277	Carey, O.	Des Moines, Iowa	All States Freight	Watson Bros. Transp.
333419	Lititz, Pa.	Harlan, Iowa	Aztec Lines, Inc.	Iowa-Nebr. Transp.
333796	Scranton, Pa.	Des Moines, Iowa	"	Des Moines Transp.
333936	Cleveland, O.	"	"	"
336084	Youngstown, O.	Cedar Rapids, Iowa	"	"
335385	Scranton, Pa.	Des Moines, Iowa	"	"
335387	"	"	"	"
346095	Lititz, Pa.	Harlan, Iowa	"	Iowa-Nebr. Transp.
346699	"	"	"	"
355899	"	"	"	"
354045	Toledo, O.	Newton, Iowa	"	Watson Bros. Transp.
380229	Cleveland, O.	Des Moines, Iowa	"	"
10824	Muskegon, Mich.	Muscatine, Iowa	Blue Arrow Transport	Gordy
M 2239	"	Iowa City, Iowa	"	Iowa-Nebr. Transp.
651165	Statesville, N.C.	Newton, Iowa	Carolina Motor Express	Western Transp. Co.
650173	"	"	"	"
651100	"	Muscatine, Iowa	"	"
660879	"	Cedar Rapids, Iowa	"	H & W Motor Express
664589	"	Muscatine, Iowa	"	Western Transp. Co.
664540	"	"	"	"
9559	Kalamazoo, Mich.	Des Moines, Iowa	Central Motor Freight	Keeshin Motor
1/61988	Chicago Hts., Ill.	"	Chicago Area Truck	Merchants Motor Freight
1/62062	Matteson, Ill.	Iowa City, Iowa	"	Western Transp. Co.

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Origin Carrier Pro No.	Point of Origin	Point of Destination	Originating Carrier	Original Routing
229075	Manitowoc, Wisc.	Malcom, Iowa	Glipper Transit	Keeshin Motor
223506	Little Chute, Wisc.	"	"	"
97465	Lima, O.	Des Moines, Iowa	Columbus & Chicago	McCoy Truck Line
24111	Wabash, Ind.	"	Co-ordinated Transp.	Des Moines Transp.
24134	"	Cedar Rapids, Iowa	"	Brady Motor Freight
232429	Dekalb, Ill.	Beatrice, Nebr.	Corey & Evans, Inc.	Red Ball
33150	Cincinnati, O.	Iowa City, Iowa	Dennis Truck Line	McCoy Truck Line
200637	Newark, N. J.	Omaha, Nebr.	Denver-Chicago Truck.	On Time Transfer
54758	Detroit, Mich.	Cedar Rapids, Iowa	Doyle Freight Lines	Gateway
46345	Mishawaka, Ind.	Omaha, Nebr.	Drummey Cartage Co.	Des Moines Transp.
46869	"	"	"	"
47159	"	"	"	"
230370	Aurora, Ill.	Iowa City, Iowa	Dumont Cartage Co.	Watson Bros. Transp.
232201	"	Des Moines, Iowa	"	Des Moines Transp.
234075	Downers Grove, Ill.	"	"	"
234479	Aurora, Ill.	Cedar Rapids, Iowa	"	Takin Bros. Freight
117172	Ligonier, Ind.	Des Moines, Iowa	F & S Transit Co.	Prucka Transp.
8778	Ferguson, Ind.	Omaha, Nebr.	Ferguson Transfer	Bos Truck Lines
1208	New Philadelphia, O.	West Liberty, Iowa	Freight, Inc.	Watson Bros. Transp.
255983	Milwaukee, Wisc.	Iowa City, Iowa	Gateway Transp. Co.	Western Transp. Co.
228714	"	"	"	"
228859	"	"	"	"
229719	"	"	"	"
256758	"	"	"	"
229563	"	"	"	"
256942	"	"	"	"
229750	"	"	"	"
230624	"	"	"	"
230669	"	"	"	"
257589	"	"	"	"
231379	"	Harlan, Iowa	"	Iowa-Nebr. Transp. Co.

Transcript of shipments received from connecting carriers at Chicago, Illinois, during the months of January, February, March and April, 1951 covering shipments originally routed via other carriers but given to The Rock Island Motor Transit Company for delivery

Origin Carrier Pro No.	Point of Origin	Point of Destination	Originating Carrier	Originally Routed
231640	Milwaukee, Wisc.	Iowa City, Iowa	Gateway Transp. Co.	Western Transp. Co.
163201	Ft. Atkinson, Wisc.	Des Moines, Iowa	"	Bos Truck Lines
163198	"	Cedar Rapids, Iowa	"	"
163200	"	Des Moines, Iowa	"	"
163195	"	Omaha, Nebr.	"	"
163197	"	"	"	"
163196	"	"	"	"
163202	"	"	"	"
163194	"	"	"	"
234857	Milwaukee, Wisc.	Iowa City, Iowa	"	Western Transp. Co.
235182	"	"	"	"
261960	"	Newton, Iowa	"	"
236320	"	"	"	"
236266	"	Iowa City, Iowa	"	"
236544	"	"	"	"
262405	"	Atlantic, Iowa	"	Watson Bros. Transp.
237103	"	Iowa City, Iowa	"	Western Transp. Co.
263008	"	"	"	"
263797	"	"	"	"
383007	Janesville, Wisc.	Des Moines, Iowa	"	McCoy Truck Line
264335	Milwaukee, Wisc.	Iowa City, Iowa	"	Western Transp. Co.
265013	"	"	"	"
265316	"	"	"	"
265235	"	"	"	"
265799	"	"	"	"
239770	"	Newton, Iowa	"	"
266212	"	Iowa City, Iowa	"	"
267705	"	"	"	"
685874	"	"	"	"
687134	"	"	"	"
725188	"	"	"	"
688035	"	"	"	"

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Origin Carrier Pro No.	Point of Origin	Point of Destination	Originating Carrier	Original Routing
725860	Milwaukee, Wisc.	Iowa City, Iowa	Gateway Transp. Co.	Western Transp. Co.
726560	"	"	"	"
688717	"	"	"	"
727503	"	Atlantic, Iowa	"	Watson Bros. Transp.
727855	"	Iowa City, Iowa	"	Western Transp. Co.
728034	"	"	"	"
689820	"	"	"	"
729161	"	"	"	"
690138	"	"	"	"
690189	"	"	"	"
64273	Lafayette, Ind.	Cedar Rapids, Iowa	J. A. Grant & Son	"
7214	Crystal Lake, Ill.	Lincoln, Nebr.	Gumprecht Trucking	On Time Trans.
7883	"	Cedar Rapids, Iowa	"	Western Transp. Co.
601957	Danville, Ill.	Newton, Iowa	Hall Freight Lines	Bos Truck Line
482301	W. Chicago, Ill.	Grinnell, Iowa	Hanson's Transfer	McCoy Truck Line
484781	St. Charles, Ill.	Omaha, Nebr.	"	Bos Truck Line
184607	Cairo, Ill.	"	Hayes Freight Lines	Des Moines Transp.
184608	"	"	"	"
2244	Danville, Ill.	Cedar Rapids, Iowa	"	Keeshin Motor
00529	Detroit, Mich.	Des Moines, Iowa	Hennepin Transp. Co.	Western Transp. Co.
03504	"	"	"	"
03503	"	"	"	"
59643	Mansfield, O.	Belleville, Ks.	Hinchcliff Motor Serv.	Mid American
59642	"	Norton, Ks.	"	"
625921	Indianapolis, Ind.	Cedar Rapids, Iowa	Huber & Huber	Western Transp. Co.
707143	Louisville, Ky.	Indianola, Iowa	"	"
707843	"	"	"	"
710911	"	"	"	"
714189	"	W. Des Moines, Iowa	"	"
615743	Indianapolis, Ind.	Cedar Rapids, Iowa	"	"

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Origin Carrier Pro No.	Point of Origin	Point of Destination	Originating Carrier	Original Routing
615819	Indianapolis, Ind.	Cedar Rapids	Huber & Huber	Western Transp. Co.
615820	"	"	"	"
616123	"	"	"	"
713871	Louisville, Ky.	Des Moines, Iowa	"	"
540487	Greeneville, Tenn.	"	"	"
540542	Erwin, Tenn.	"	"	Knaus Truck
540490	Greeneville, Tenn.	Muscatine, Iowa	"	Western Transp. Co.
717463	Louisville, Ky.	Winterset, Iowa	"	Western Transp. Co.
717754	"	Newton, Iowa	"	"
620647	Brookville, Ind.	"	"	Des Moines Transp.
620631	"	Kellogg, Iowa	"	"
724255	Louisville, Ky.	W. Des Moines, Iowa	"	Western Transp. Co.
724754	"	Newton, Iowa	"	"
549492	Greeneville, Tenn.	Muscatine, Iowa	"	"
709540	Louisville, Ky.	Des Moines, Iowa	"	"
622784	Indianapolis, Ind.	Cedar Rapids, Iowa	"	Brady Motor Freight
645896	Greeneville, Tenn.	Cedar Rapids, Iowa	"	Western Transp. Co.
68116	Monticello, Ill.	Des Moines, Iowa	Illini Reefer Trans.	Brady Motor Freight
168772	Joliet, Ill.	Iowa City, Iowa	Joliet Warehouse & Tfr.	Watson Bros. Transp.
184234	"	Avoca, Iowa	"	Iowa-Nebr. Transp.
17213	Huntington, Ind.	Des Moines, Iowa	Kain's Motor Service	Des Moines Transp.
33713	Wabash, Ind.	Newton, Iowa	"	H & W Motor Express
414	Waukean, Ill.	Des Moines, Iowa	Krema Trucking Co.	Des Moines Transp.
2337	Evanston, Ill.	"	"	"
9351	Nile, Mich.	Cedar Rapids, Iowa	Lake Shore Motor Trans.	Hawkeye Motor
124517	Benton Harbor, Mich.	Des Moines, Iowa	"	Des Moines Transp.
9650	Niles, Mich.	Cedar Rapids, Iowa	"	McCoy Truck Line
9686	"	"	"	Hawkeye Motor
10062	"	Iowa City, Iowa	"	Iowa-Nebr. Transp.
2054	Pawtucket, R.I.	Cedar Rapids, Iowa	Liberty Motor Freight	Watson Bros. Transp.
2065	"	Iowa City, Iowa	"	"

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419594	Grand Rapids, Mich.	Des Moines, Iowa	Midway Transit Co.	Des Moines Transp.
416671	"	"	"	"
419724	"	"	"	"
435525	Jackson, Mich.	Iowa City, Iowa	"	Watson Bros. Transp.
419728	Grand Rapids, Mich.	Des Moines, Iowa	"	Des Moines Transp.
172715	Duluth, Minn.	Newton, Iowa	Moland Bros. Trucking	Keeshin Motor
508231	New Buffalo, Mich.	Lincoln, Nebr.	Northwestern Transit	Union Freightways
525198	Mishawaka, Ind.	Iowa City, Iowa	"	McCoy Truck Line
525314	Detroit, Mich.	Cedar Rapids, Iowa	"	Takin Bros.
525416	New Buffalo, Mich.	Des Moines, Iowa	"	Des Moines Transp.
525418	Detroit, Mich.	"	"	"
525417	Michigan City, Ind.	Cedar Rapids, Iowa	"	McCoy Truck Line
518759	Detroit, Mich.	Iowa City, Iowa	"	Western Transp.
529879	LaPorte, Ind.	"	"	Watson Bros. Transp.
62247	Michigan City, Ind.	Council Bluffs, Iowa	Norwalk Truck Line	Ringsby Truck Lines
91491	Fremont, O.	Cedar Rapids, Iowa	"	Watson Bros. Transp.
91501	"	Newton, Iowa	"	"
91482	"	Cedar Rapids, Iowa	"	"
75312	Avon Lake, O.	Omaha, Nebr.	"	"
34751	New Castle, Pa.	"	"	"
16097	Shelby, O.	"	"	"
99844	Jackson, Mich.	Atlantic, Iowa	"	"
74495	Ft. Wayne, Ind.	Omaha, Nebr.	"	Fleetways
81826	Toledo, O.	Atlantic, Iowa	"	Watson Bros. Transp.
77411	Paulding, O.	Des Moines, Iowa	"	Merchants Motor Freight
94424	Michigan City, Ind.	Des Moines, Iowa	"	Watson Bros. Transp.
32730	Detroit, Mich.	"	"	Merchants Motor Freight
40709	Cleveland, O.	"	"	Watson Bros. Transp.
22004	Shelby, O.	Grinnell, Iowa	"	"
54090	Milwaukee, Wisc.	Newton, Iowa	Fred Olson & Son	Western Transp. Co.
3-45875	Oshkosh, Wisc.	Indianola, Iowa	Olson Transp. Co.	Knaus Truck Line

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3-55602	Sturgeon Bay, Wisc.	Newton, Iowa	Olson Transp. Co.	Keeshin Motor
3-82835	Grafton, Wisc.	"	"	"
3-82837	"	"	"	"
4-32788	Two Rivers, Wisc.	Iowa City, Iowa	"	Watson Bros. Transp.
4-94802	"	"	"	"
11900	Woodstock, Ill.	Des Moines, Iowa	Paine Motor Express	McCoy Truck Line
12085	Harvard, Ill.	"	"	Des Moines Transp.
87482	Cleveland, O.	Grinnell, Iowa	Ramus Trucking Line	Watson Bros. Transp.
778781	"	Cedar Rapids, Iowa	Red Star Transit	Bos Truck Line
778778	"	"	"	"
665547	"	"	"	"
810306	Detroit, Mich.	"	"	Watson Bros. Transp.
977669	Florence, N.J.	Muscatine, Iowa	Riss & Co., Inc.	Poole Transfer
245926	Bradley, Ill.	Des Moines, Iowa	Rudolf Express Co.	Des Moines Transp.
2824	Flint, Mich.	Muscatine, Iowa	Saginaw Transfer Co.	Knaus Motor
56-406570	Statesville, N.C.	Des Moines, Iowa	Silver Fleet Motor	Merchants Motor Freight
56-412222	"	Muscatine, Iowa	"	Western Transp. Co.
962689	Springfield, Mass.	Newton, Iowa	Spector Motor Service	Keeshin Motor
51361	Philadelphia, Pa.	Des Moines, Iowa	"	Des Moines Transp.
9240	Bridgeport, Conn.	"	"	Watson Bros. Transp.
100007	New Britain, Conn.	Muscatine, Iowa	"	Poole Transp.
11486	Bridgeport, Conn.	Newton, Iowa	"	Western Transp. Co.
11677	"	Des Moines, Iowa	"	Watson Bros. Transp.
72328	Philadelphia, Pa.	"	"	Des Moines Transp.
100963	Meriden, Conn.	"	"	Western Transp. Co.
101008	W. Hartford, Conn.	Council Bluffs, Iowa	"	Prucka Transp.
12354	Bridgeport, Conn.	Newton, Iowa	"	Western Transp. Co.
12072	Southport, Conn.	"	"	"
101120	Waterbury, Conn.	"	"	"
101131	Springfield, Mass.	"	"	"
101463	Waterbury, Conn.	"	"	"

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Origin Carrier Pro No.	Point of Origin	Point of Destination	Originating Carrier	Original Routing
105818	Plainville, Conn.	Newton, Iowa	Spector Motor Service	Des Moines Transp.
14615	Shelton, Conn.	Omaha, Nebr.	"	On Time Trans.
14614	"	"	"	"
14613	"	"	"	"
14716	Bridgeport, Conn.	Des Moines, Iowa	"	Watson Bros. Transp.
14756	Southport, Conn.	Newton, Iowa	"	Western Transportation
105280	Waterbury, Conn.	Muscatine, Iowa	"	Poole Transfer
221118	Detroit, Mich.	W. Liberty, Iowa	Standard Freight Line	H & W Motor Express
177321	Akron, O.	Iowa City, Iowa	Summit Fast Freight	McCoy Truck Line
13602	Muncie, Ind.	Muscatine, Iowa	Tarbet Trucking	Poole Transfer
163288	Allegan, Mich.	Newton, Iowa	Tripp Trucking Co.	Keeshin Motor
929582	Centralia, Ill.	Montezuma, Iowa	Viking Freight Co.	"
299944	Hammond, Ind.	Iowa City, Iowa	West Shore Transport	Western Transp.
A79160	Macon, Ga.	Newton, Iowa	Wilson Truck Co.	Watson Bros. Transp.
C43423	Rossville, Ga.	Des Moines, Iowa	"	"
2W5644	Lake Mills, Wisc.	W. Liberty, Iowa	Wolf Truck Lines	"
408861	Cadillac, Mich.	Ft. Des Moines, Iowa	Wolverine Express	Merchants Motor Freight
04956	Vincennes, Ind.	Elkhart, Iowa	Yellow Transit Co.	Brady Motor Freight
218987	Waupun, Wisc.	Muscatine, Iowa	Yellow Truck Lines	Gordy
34041	Kenosha, Wisc.	So. Omaha, Nebr.	Yule Truck Lines	Watson Bros. Transp.

1898

Exhibit No. 20

(See Opposite) ☞

(P. 1899. -Ft 2529)

Form 19

THE ROCK ISLAND MOTOR TRANSIT COMPANY

Daily Record of Terminal Operations

To: Mr. W. F. Peterson, General Manager,
Des Moines, Iowa

Station Chicago, Ill.

Date February 29, 1932.

Payroll Titles	Terminal Forces — This Month: No. Men	Man Hrs.	Reg. Pay	Over Time	Total Payroll	Same Month Last Year: No. Men	Man Hrs.	Reg. Pay	Over Time	Total Payroll
Dock Foremen										
Frt. Handlers										
Frt. Checkers										
Total										
Total to Date	X					X				
P. U. & Del. Drivers										
Dispatcher										
Total										
Total to Date	X					X				

	Today	Total for Curr. Month to Date	Same date last year	Total for Mo to date last year
Pds. Mdse. Handled Across Dock	[illegible]	[illegible]	[illegible]	[illegible]
Handling Cost Per Cwt.		[illegible]		
Pds. Handled per Man Hour	[illegible]	[illegible]	[illegible]	[illegible]
Pds. Mdse. Picked up & Delivered				
P. U. & D. Cost per Cwt.				
Pds. P. U. & D. Per Man Hour.				

	Pounds		Pounds
Freight Inbound For City		Freight Outbound From City	
For Connecting Lines		From Connecting Lines	
		Transfer - (Through)	

Total Pounds _____

Freight Received But Not Loaded Out _____

C. A. Kinney.
Terminal Agent

2529

[fol. 2530]

THE ROCK ISLAND MOTOR TRANSIT COMPANY Form 19 (P.1900)

Daily Record of Terminal Operations

To: Mr. W. F. Peterson, General Manager,
Des Moines, Iowa

Station [redacted]

Date [redacted]

Payroll Titles	Terminal Forces — This Month: No Men	Man Hrs	Reg Pay	Over Time	Total Payroll	Same Month Last Year: No Men	Man Hrs	Reg Pay	Over Time	Total Payroll
Dock Foremen										
Frt. Handlers										
Frt. Checkers										
Total										
Total to Date	X					X				
P. U. & Del. Drivers										
Dispatcher										
Total										
Total to Date	X					X				

	Today	Total for Curr. Month to Date	Same date last year	Total for Mo to date last year
Pds. Mdse. Handled Across Dock	[redacted]	[redacted]	[redacted]	[redacted]
Handling Cost Per Cwt.		[redacted]		
Pds. Handled per Man Hour				
Pds. Mdse. Picked up & Delivered	[redacted]	[redacted]	[redacted]	[redacted]
P. U. & D. Cost per Cwt.				
Pds. P. U. & D. Per Man Hour				

Freight Inbound	Pounds	Freight Outbound	Pounds
For City		From City	
For Connecting Lines		From Connecting Lines	
		Transfer - (Through)	

Total Pounds _____

Freight Received But Not Loaded Out _____

[redacted]
Terminal Agent

2530

[fol. 2531]

(P. 1901)

Form 19

THE ROCK ISLAND MOTOR TRANSIT COMPANY

Daily Record of Terminal Operations

To: Mr. W. F. Peterson, General Manager,
Des Moines, Iowa

Station Chicago, Ill.

Date December 31, 1951.

Payroll Titles	Terminal Forces — This Month: No Men	Man Hrs	Reg. Pay	Over Time	Total Payroll	Same Month Last Year: No Men	Man Hrs.	Reg Pay	Over Time	Total Payroll
Dock Foremen										
Frt Handlers										
Frt. Checkers										
Total										
Total to Date	X					X				
P U & Del Drivers										
Dispatcher										
Total										
Total to Date	X					X				

	Today	Total for Curr Month to Date	Same date last year	Total for Mo to date last year
Pds Mdse Handled Across Dock	[illegible]	[illegible]	[illegible]	[illegible]
Handling Cost Per Cwt		[illegible]		
Pds Handled per Man Hour				
Pds Mdse Picked up & Delivered	[illegible]	[illegible]	[illegible]	[illegible]
P U & D Cost per Cwt				
Pds P U & D Per Man Hour				

	Pounds		Pounds
Freight Inbound For City		Freight Outbound From City	
For Connecting Lines		From Connecting Lines	
		Transfer - (Through)	

Total Pounds _____

Freight Received But Not Loaded Out _____

G. A. Kinney
Terminal Agent

2531

[fol. 2532]

THE ROCK ISLAND MOTOR TRANSIT COMPANY

Form 19

(P. 1902)

Daily Record of Terminal Operations

To: Mr. W. F. Peterson, General Manager,
Des Moines, Iowa

Station Chicago, Ill.

Date November 30, 1931.

Payroll Titles	Terminal Forces									
	This Month					Same Month Last Year				
	No Men	Man Hrs	Reg Pay	Over Time	Total Payroll	No Men	Man Hrs	Reg Pay	Over Time	Total Payroll
Dock Foremen										
Frt Handlers										
Frt Checkers										
Total										
Total to Date	X					X				
P U & Del Drivers										
Dispatcher										
Total										
Total to Date	X					X				

	Today	Total for Curr Month to Date	Same date last year	Total for Mo to date last year
Pds Mdse Handled Across Dock	242384	4426357	452734	8889077
Handling Cost Per Cwt		36%		
Pds Handled per Man Hour	32851	403641	206154	4072828
Pds Mdse Picked up & Delivered				
P U & D Cost per Cwt				
Pds P U & D Per Man Hour				

Freight Inbound For City	Pounds	Freight Outbound From City	Pounds
For Connecting Lines		From Connecting Lines	
		Transfer - (Through)	

Total Pounds _____

Freight Received But Not Loaded Out _____

C. A. Kinney
Terminal Agent

2532

[fol. 2533]

(page 1903)

THE ROCK ISLAND MOTOR TRANSIT COMPANY

Form 19

Daily Record of Terminal Operations

To: Mr. W. F. Peterson, General Manager,
Des Moines, Iowa

Station Chicago

Date October 31, 1951

	Terminal Forces									
	This Month					Same Month Last Year				
Payroll Titles	No Men	Man Hrs	Reg Pay	Over Time	Total Payroll	No. Men	Man Hrs	Reg Pay	Over Time	Total Payroll
Dock Foremen										
Frt Handlers										
Frt Checkers										
Total										
Total to Date	X					X				
P U & Del Drivers										
Dispatcher										
Total										
Total to Date	X					X				

	Today	Total for Curr Month to Date	Same date last year	Total for Mo to date last year
Pds Mdse Handled Across Dock	[illegible]	4866078	416705	8[illegible]078
Handling Cost Per Cwt		42% decrease		
Pds Handled per Man Hour				
Pds Mdse Picked up & Delivered	[illegible]	[illegible]	[illegible]	[illegible]
P U & D Cost per Cwt				
Pds P U & D Per Man Hour				

Freight Inbound	Pounds	Freight Outbound	Pounds
For City		From City	
For Connecting Lines		From Connecting Lines	
		Transfer (Through)	

Total Pounds _____

Freight Received But Not Loaded Out _____

Terminal Agent F. A. Kinner.

2533

[fol. 2534] EXHIBIT No. 21

LEWIS COMMERCIAL CLUB

Meets Second Thursday Each Month

Home of Cold Springs Park

LEWIS, IOWA

This petition is presented by the merchants of Lewis, Iowa.

When the Rock Island Rail Road was taken out several years ago it was the understanding then that the town was to be serviced by the Rock Island Motor Freight, which they have continued to do.

The only other freight service we have is the McVay truck which operates a local service from Greenfield to Omaha. The Rock Island truck line is the only freight service we have which brings in freight from all points and is the only truck line which carries freight out to all points.

The Berry Garage and Machine Shop is dependent upon the Rock Island freight line to bring in farm machinery from Detroit and repair parts from Des Moines.

The Joyce Lumber *Co.* gets all their mill work for houses from Des Moines and they are dependent entirely upon the Rock Island truck line to bring it in. The Rock Island handles every thing that is trucked in.

This also applies to the Marker Hardware. They are dependent entirely upon the Rock Island trucks to bring in their merchandise from Des Moines and Chicago.

The Cavin Woodworking Shop reports that he gets 3 day service from Des Moines, by the Rock Island truck, for all his lumber and they deliver it to his shop during day light hours.

This same situation applies to all other business houses. Out side of the local McVay truck the Rock Island is the only freight service we have, and the only one that brings in long distance freight such as Detroit and Chicago and the only service from the east.

We like the Rock Island service and we request that by all means they continue to serve us.

[fol. 2535]

/s/ Walter C. Burnside Mayor

/s/ H. G. Marker Hdw. Manager

/s/ Claud Cusady Standard Service President Commercial Club

/s/ H. E. Cooper Standard Oil Co. Maintenance Man

/s/ Riley P. Clark Berry Garage Lewis

/s/ Miller Cavin Cabinet Shop

/s/ E. H. Krohn Lewis Cash Store

/s/ Dick Clark Supt. Joyce Lumber Co.

Central Music Co. /s/ N. Quinn

/s/ Fred Dory Dory Garage

/s/ Asa Jones Lewis Drug Sundries

/s/ W. J. Breckirbaumer Pres. Lewis School Board

/s/ Harold Nelson Mgr. Joyce Lumber Co.

/s/ C. M. Hancock Ins & Real Estate

/s/ J. Frank Berry Berry Garage

[fol. 2536] EXHIBIT No. 22

(See Opposite) ☞

EXHIBIT No 22

Appears in first frame
of the next card.

Exhibit 23

INDICES OF TONS TRANSPORTED IN INTERCITY SERVICE
YEARS 1938 - 1950
1941 100%

Legend:

(1) Class I Railroad Originated LCL Tonnage*

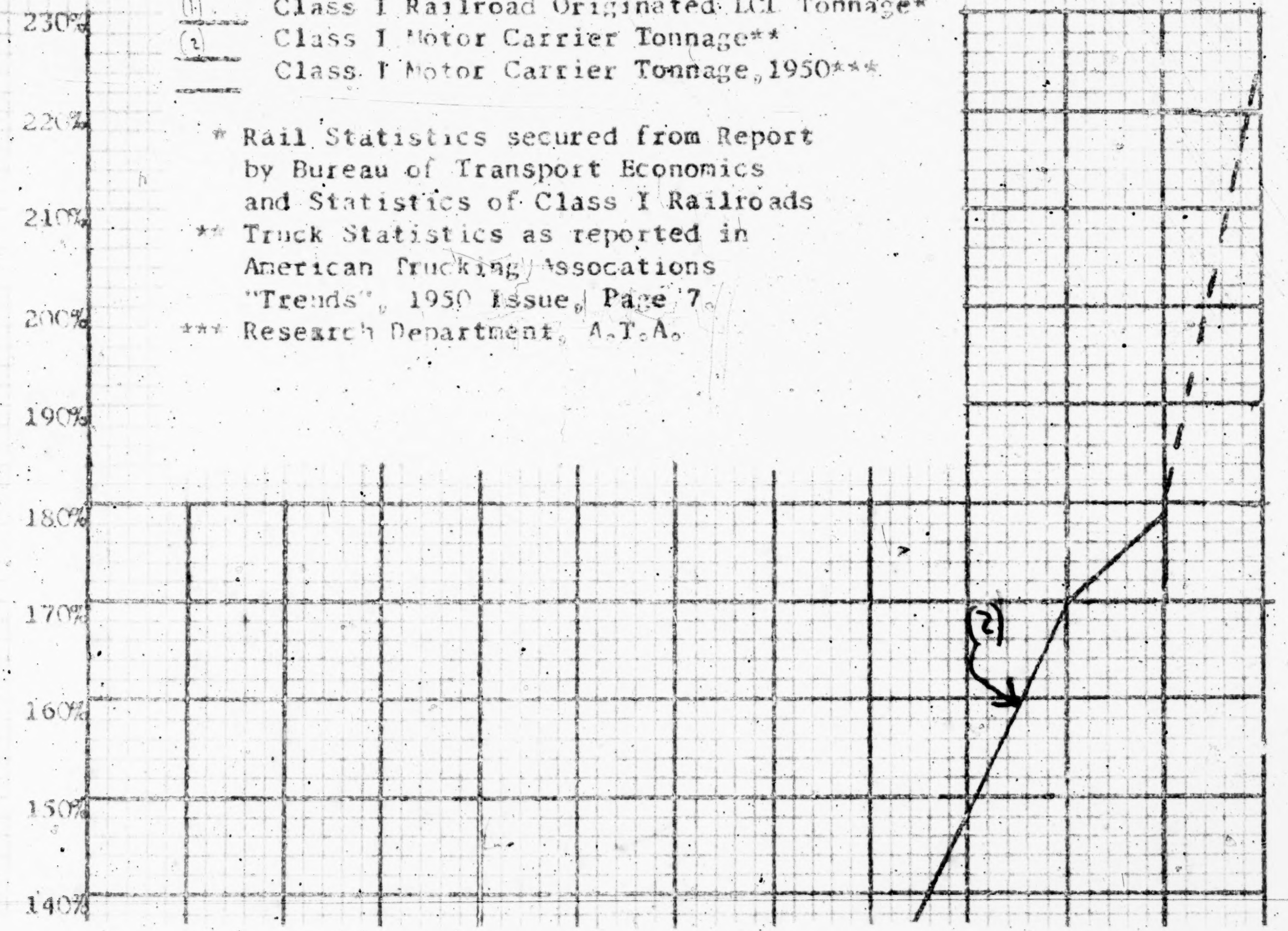
(2) Class I Motor Carrier Tonnage**

Class I Motor Carrier Tonnage, 1950***

* Rail Statistics secured from Report by Bureau of Transport Economics and Statistics of Class I Railroads

** Truck Statistics as reported in American Trucking Assocations "Trends", 1950 Issue, Page 7.

*** Research Department, A.T.A.



[fol. 2538] EXHIBIT No. 24

AFFIDAVIT OF FRED J. MILLETT

State of Iowa)
County of Polk) *ss.*

I, Fred J. Millett, being first duly sworn do state: I reside in Des Moines, Iowa; I am now employed by Rock Island Motor Transit Company as Assistant to the General Freight Agent; I have been so employed since April 1, 1938, and prior thereto was employed by White Line Motor Freight Company, the operating authority and equipment of which were acquired by Rock Island Motor Transit Company; my employment with both the companies above named has been in connection with rate and traffic matters.

In the year 1946 I made an examination of the freight bills of Rock Island Motor Transit Company, covering all shipments handled during the years 1944 and 1945, for the purpose of determining the number of instances, in which during those years, there had been delivered to Rock Island Motor Transit Company shipments by connecting motor carriers, which motor carriers according to their published tariffs had authority to serve the points to which such shipments were destined.

During 1944 Rock Island Motor Transit Company received interstate shipments from connecting carriers, which according to their published tariffs had regular route authority to serve the destination points of the shipments between Davenport and Council Bluffs, Iowa, a total of 3,077 shipments. These shipments were received at the junction points with connecting carriers in the number set out below with the destinations shown herein. These shipments originated in all parts of the United States.

[fol. 2539]

Point Received	Carrier	No. of Shipments	Destination
Davenport, Iowa	H & W Motor Exp. Company	12	Durant and West Liberty
" "	Keeshin Motor Express Co.	113	Iowa City, Marengo & West Liberty, Iowa
" "	Merchants Motor Frt., Inc.	123	Durant, Grinnell, Marengo, Walcott, West Liberty & Wilton Jct., Iowa
" "	Watson Bros. Transportation Co.	10	Atalissa, West Liberty & Wilton Jct., Iowa
" "	Western Trans. Co.	8	Wilton Jct., Iowa
Iowa City, Iowa	Iowa-Nebraska Trans. Company	25	Wilton Jct., So. Amana & West Liberty, Iowa
" " "	Merchants Motor Frt., Inc.	2	West Liberty, Iowa
Cedar Rapids, Iowa	H & W Motor Express	769	Brooklyn, Colfax, Durant, Grinnell, Iowa City, Marengo, Newton & West Liberty, Iowa
" " "	McCoy Truck Lines	10	Grinnell, Iowa
" " "	Merchants Motor Frt., Inc.	143	Brooklyn, Ladora, Marengo, Oxford, Victor & West Liberty, Iowa
" " "	Nat'l Freight Lines	5	Brooklyn, Marengo & West Liberty, Iowa
" " "	Western Trans. Co.	6	Iowa City, Marengo & West Liberty, Iowa
Omaha, Nebraska	Bos Truck Lines	27	Anita, Atlantic, Casey & Lewis, Iowa
" "	Des Moines Trans. Co.	2	Atlantic, Iowa
" "	Illinois-Colorado Exp.	2	Des Moines, Iowa
" "	Merchants Motor Frt.	2	Lewis & Oakland, Iowa.
" "	Ringsby Truck Line, Inc.	8	Atlantic, Iowa City & Newton, Iowa
" "	Watson Bros. Trans. Co.	54	Adair, Anita, Casey, Oakland, Stuart & Wiota, Iowa

[fol. 2540]

Des Moines, Iowa	Bos Truck Lines, Inc.	101	Adair, Anita, Atlantic, Casey, Council Bluffs, Lewis, Newton & Stuart, Iowa

Point Received	Carrier	No. of Shipments	Destination
Des Moines, Iowa	Des Moines Trans. Co.	29	Atlantic & Grinnell, Iowa
" " "	H. & W Motor Express Co.	7	Brooklyn, Durant, Grinnell, & West Liberty, Iowa
" " "	Iowa-Nebraska Trans. Co.	7	Colfax & Grinnell, Iowa
" " "	Keeshin Motor Express Co.	4	Kellogg, Marengo & Mitchellville, Iowa
" " "	Knaus Truck Lines, Inc.	28	Brooklyn, Grinnell, Iowa City, Marengo, Newton, Victor & West Liberty, Iowa
" " "	McCoy Truck Lines, Inc.	55	Atlantic, Colfax, Council Bluffs, Grinnell, Newton, Iowa & Omaha, Nebr.
" " "	Merchants Motor Frt.,	1216	Atlantic, Adair, Altoona, Anita, Brooklyn, Casey, Colfax, Grinnell, Kellogg, Marengo, Mitchellville & Victor, Iowa
" " "	Watson Bros. Trans. Co.	285	Adair, Altoona, Anita, Atalissa, Brooklyn, Casey, Colfax, Durant, Grinnell, Homestead, Kellogg, Lewis, Marengo, Oakland, Stuart, So. Amana, Victor & Walcott, Iowa
" " "	Western Trans. Co.	24	Adair, Anita, Casey, Colfax, Kellogg, Oakland & West Liberty, Iowa

During 1945, Rock Island Motor Transit Company received interstate shipments from connecting carriers, which according to their published tariffs had regular route authority to serve the destination points of the shipments between Davenport and Council Bluffs, Iowa, a total of 2,366 shipments. These shipments originated in all parts of the United States, were received by Rock Island Motor Transit Com- [fol. 2541] pany at the junction points, in the numbers set out below, with the destinations shown.

Point Received	Carrier	No. of Shipments	Destination
Davenport, Iowa	Keeshin Motor Exp. Co., Inc.	10	Durant, Iowa City, Walcott, West Liberty, & Wilton Jct., Iowa
" "	H & W Motor Exp. Co.	13	Durant, West Liberty & Wilton Jct., Iowa
" "	Merchants Motor Frt., Inc.	77	Durant, Grinnell, Walcott, West Liberty & Wilton Jct., Iowa
" "	Watson Bros. Trans.	17	Oxford, Walcott, So. Amana & Wilton Jct., Iowa
Iowa City, Iowa	Iowa-Nebraska Trans. Co.	8	So. Amana, Iowa
Cedar Rapids, Ia.	Western Trans. Co.	4	Marengo, Iowa
" " "	Nat'l Freight Lines (Keeshin Motor Express Co. subsidiary)	4	Brooklyn & Marengo, Iowa
" " "	Merchants Motor Frt., Inc	89	Brooklyn, Ladora, Marengo, Oxford, Tiffin, Victor & West Liberty, Iowa
" " "	McCoy Truck Lines, Inc.	10	Atlantic, Grinnell, Iowa City & Newton, Iowa
" " "	H & W Motor Express Co.	699	Brooklyn, Colfax, Durant, Grinnell, Iowa City, Kellogg, Marengo, Newton, Oxford, Walcott, West Liberty, & Wilton Jct., Iowa
Omaha, Nebraska	Bos Truck Lines	16	Atlantic, Lewis & Oakland, Iowa
" "	Des Moines Trans Co.	1	Atlantic, Iowa
" "	Merchants Motor Frt., Inc.	17	Adair, Atlantic, Lewis & Oakland, Iowa
" "	Watson Bros. Trans. Co.	38	Adair, Anita, Casey, Dexter, Menlo, Stuart, Walcott & Wiota, Iowa
Des Moines, Iowa	Bos Truck Lines, Inc.	102	Adair, Anita, Atlantic, Brooklyn, Casey, Colfax, & Kellogg, Iowa

[fol. 2542]

Des Moines, Iowa	Brady Transfer & Storage Company	23	Atlantic, Grinnell, Iowa City, Marengo, Newton, & Stuart, Iowa, & Rock Island, Illinois

Point Received	Carrier	No. of Shipments	Destination
Des Moines, Iowa	Des Moines Trans. Co.	75	Atlantic, Grinnell & Wilton Jct., Iowa
" " "	Iowa-Nebr. Trans. Co.	19	Casey & Grinnell, Iowa
" " "	Keeshin Motor Exp. Co.	6	Kellogg, Iowa
" " "	McCoy Truck Lines, Inc.	73	Adair, Anita, Atlantic, Casey, Council Bluffs, Colfax, Dexter, Grinnell, Iowa City, Kellogg, Lewis, Mitchellville, Newton, Oakland, Stuart & Victor, Iowa
" " "	Merchants Motor Frt., Inc.	845	Adair, Altoona, Anita, Atlantic, Brooklyn, Casey, Colfax, Grinnell, Kellogg, Malcom, Marengo, Mitchellville, Stuart, & Wiota, Iowa
" " "	Nat'l Freight Lines (Keeshin subsidiary)	5	Altoona, Atlantic, Colfax & Mitchellville, Iowa
" " "	Watson Bros. Trans. Co.	195	Adair, Anita, Victor, Atalissa, Brooklyn, Casey, Colfax, Durant, Grinnell, Kellogg, Marengo, Mitchellville, Oakland, Stuart, West Liberty & Wilton Jct., Iowa
" " "	Western Trans. Co.	20	Anita, Colfax, & Kellogg, Iowa

I have likewise made a check of the freight bills of Rock Island Motor Transit Company for the year 1950, which examination disclosed that during that year there was received in interstate commerce from connecting regular route carriers having authority to serve destination points of the shipments between Davenport and Council Bluffs, Iowa, a total of 5,541 shipments, at the junction points with such carriers in the numbers set out below with the destinations shown below.

[fol. 2543]

Point Received	Carrier	No. of Shipments	Destination
Des Moines, Iowa	Bos Truck Lines	69	Adair, Anita, Brayton, Brooklyn, Casey, Grinnell, Iowa City, Kellogg, Lewis, Marengo, Menlo, & Stuart, Iowa
" " "	Brady Transfer & Storage	71	Altoona, Atlantic, Cedar Rapids, Colfax, Grinnell, Iowa City, Kellogg, Marengo, Mitchellville, Newton, Stuart, Victor, & Wilton Jct., Iowa
" " "	Des Moines Trans. Co.	1	Atlantic, Iowa
" " "	H & W Motor Exp. Co.	4	Atlantic, Grinnell, & Newton, Iowa.
" " "	Iowa-Nebr. Trans. Co.	1	West Des Moines, Iowa
" " "	Keeshin Motor Express	61	Altoona, Colfax, Ladora, Kellogg, Marengo & Mitchellville, Iowa
" " "	Knaus Truck Lines	6	Brooklyn, Colfax, Iowa
" " "	McCoy Truck Lines, Inc.	133	Adair, Atlantic, Colfax, Dexter, Grinnell, Hamlin & Oakland, Iowa
" " "	Merchants Motor Frt., Inc.	463	Adair, Altoona, Anita, Atlantic, Brooklyn, Casey, Colfax, Dexter, Grinnell, Kellogg, Lewis, Mitchellville, & Wiota, Iowa
" " "	Nat'l Freight Lines (Keeshin subsidiary)	2	Colfax, Iowa
" " "	Watson Bros. Transp. Co.	844	Adair, Atalissa, Anita, Altoona, Atlantic, Audubon, Brooklyn, Casey, Colfax, Dexter, Durant, Exira, Grinnell, Griswold, Hamlin, Homestead, Kellogg, Lewis, Marengo, Ladora, Menlo, Mitchellville, Neola, Oakland, Oxford, Stuart, Tiffin, Victor, Walnut, West Liberty, Wilton Jct., & Wiota,

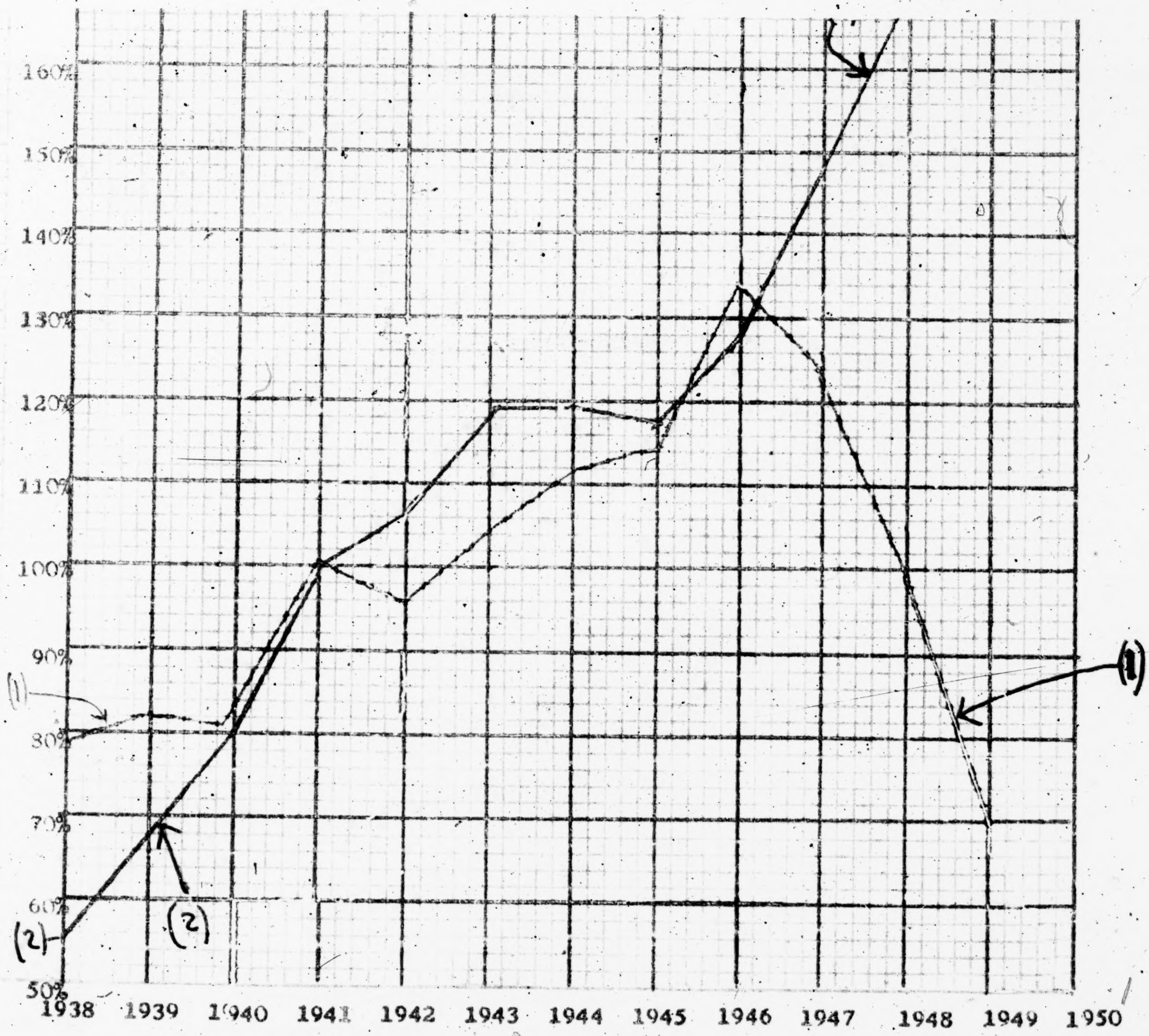
Point Received	Carrier	No. of Shipments	Destination
Des Moines, Iowa	Western Trans. Co.	16	Brooklyn, Colfax, & Kellogg, Iowa
[fol. 2544]			
Davenport, Iowa	Brady Transfer & Storage Co.	84	Cedar Rapids, Coralville, Iowa City, West Liberty, & Wilton Jct., Iowa
" "	H & W Motor Exp. Co.	26	Atalissa, Brooklyn, Durant, Iowa City, Muscatine, Oxford, & Stockton, Iowa
" "	Keeshin Motor Exp.	171	Bettendorf, Buffalo, Brooklyn, Colfax, Coralville, Durant, Iowa City, Kellogg, Marengo, Mitchellville, Muscatine, Victor, Oxford, Walcott, West Liberty & Wilton Jct., Iowa
" "	Knaus Truck Lines	1	Brooklyn, Iowa
" "	Merchants Motor Frt., Inc.	19	Atalissa, Durant, Stockton, Walcott, West Liberty & Wilton Jct., Iowa
" "	Motor Cargo, Inc.	2328	Cedar Rapids, Des Moines & Iowa City, Iowa
" "	Poole Transfer Co.	2	Wilton Jct., Iowa
" "	Rock Island Transfer & Storage Co.	53	Iowa City, Iowa
" "	Watson Bros. Trans. Co.	127	Brooklyn, Durant, Homestead, Kalona, Marengo, Oxford, Stockton, Walcott, & Wilton Jct., Iowa
" "	Western Trans. Co.	1	Iowa City, Iowa
Cedar Rapids, Iowa	Brady Transfer & Storage Co.	3	Brooklyn, Iowa
" " "	Gateway Trans. Co.	28	Des Moines, Grinnell, Kellogg, & Newton, Iowa
" " "	H & W Motor Exp. Co.	623	Atalissa, Brooklyn, Coralville, Colfax, Durant, Grinnell, Homestead, Iowa City, Kellogg, Lewis, Marengo, Newton, Oxford, West Liberty, Victor & Wilton Jct., Iowa

Point Received	Carrier	No. of Shipments	Destination
Cedar Rapids, Iowa	Keeshin Motor Express	24	Brooklyn, Coralville, Colfax, Homestead, Marengo, & West Liberty, Iowa

[fol. 2545]

Cedar Rapids, Iowa	McCoy Truck Lines, Inc.	60	Adair, Anita, Atlantic, Brooklyn, Coralville, Davenport, Durant, Kellogg, Ladora, Marengo, Mitchellville, Newton, Oxford, Victor, & Wilton Jct., Iowa
" " "	Merchants Motor Frt.,	163	Brooklyn, Marengo, Newton, Oxford, Victor, West Liberty & Wilton Jct., Iowa
" " "	Nat'l Freight Lines (Keeshin subsidiary)	1	Durant, Iowa
" " "	Western Trans. Co.	6	Brooklyn, Ladora, Marengo, West Liberty & Wilton Jct., Iowa
Omaha, Nebraska	Independent Truckers	1	Durant, Iowa
" "	Bos Truck Lines	1	Brayton, Iowa
" "	Merchants Motor Frt., Inc.	2	Lewis, Iowa
" "	Prucka Transportation, Inc.	1	Des Moines, Iowa
" "	Ringsby Truck Line	142	Adair, Atalissa, Atlantic, Audubon, Bettendorf, Brooklyn, Cedar Rapids, Davenport, Des Moines, Dexter, Durant, Grinnell, Iowa City, Menlo, Oakland, Stuart, Victor, & Oxford, Iowa
" "	Watson Bros. Trans. Co.	3	Adair, Griswold, & Stuart, Iowa

I am familiar with the traffic moving over the lines of the Rock Island Motor Transit Company to destinations in the State of Iowa and from Iowa points to destinations outside the State of Iowa. While I have not made a specific study of the freight bills during the years 1946, 1947, 1948 and 1949, I know that the practices followed by the carriers hereinbefore referred to during 1944 and 1945 continued, with minor exceptions, and that during the years from 1940 down to the


160%
150%
140%
130%
120%
110%
100%
90%
80%
70%
60%
50%
1938
1939
1940
1941
1942
1943
1944
1945
1946
1947
1948
1949
1950
(1)
(2)
(2)
(1)

present time most of the regular route motor carriers having authority to serve intermediate points between Davenport, Iowa and Council Bluffs, Iowa have followed the practice of delivering to Rock Island Motor Transit Com-
[fol. 2546] pany at Davenport, Cedar Rapids, Des Moines, Iowa or Omaha, Nebraska interstate shipments destined to the smaller intermediate points.

I do further state that in many instances westbound shipments destined to points between Davenport and Des Moines, Iowa have been delivered to Rock Island Motor Transit Company at Des Moines, Iowa, for delivery at destination; likewise, eastbound shipments destined to points between Council Bluffs and Des Moines have been delivered to Rock Island Motor Transit Company at Des Moines, Iowa.

/s/ Fred J. Millett, Ass't. to General Freight Agent

Subscribed and sworn to before me this 13th day of August, 1951.

SEAL

/s/ J. H. Martin, Notary Public in and for Polk County, Iowa

Note

Exhibit 25 (p. 1919) is found at top left of Card 31.

[fol. 2548] EXHIBIT No. 26

COPY

KEESHIN MOTOR EXPRESS CO., INC.

IN REORGANIZATION CASE 46-B-26
N. E. DISTRICT ILLINOIS
WILLIAM F. DROHAN DANIEL D. CARMELL
TRUSTEES

March 18, 1952

Subject: Receiving freight from connecting lines at Cedar Rapids, Iowa

To: Carriers doing business with Keeshin Motor Express

Gentlemen:

We have been trying to continue our peddle operations, handling both our own freight and that received from the connectine line carriers. We have tried this without success despite orders from our Chicago office. However, with the present shortage of equipment, we are not going to be able to accept freight from any line except the two set-up by our tariff which are: H & W Motor Express and A. W. Schmidt.

We are very sorry we cannot continue to accept freight from the other carriers as we have enjoyed good business connections with you. If conditions are changed so that we again can inter-line freight with you here at Cedar Rapids, we will notify you immediately.

To give you time to change your operations to our change, I will not commence this policy until next week or Monday 24, 1952, to be exact. Please notify all your employees this concerns as we will not accept freight after that date except from the two companies designated and then only when two line hauls are involved.

Thanks for your cooperation.

Very truly yours,

/s/ Frank J. Alba, Terminal Manager

[fol. 2549] EXHIBIT No. 27

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

No. MC 47619*

IOWA-NEBRASKA TRANSPORTATION CO., I. C.,
CHICAGO, ILLINOIS

At a Session of the INTERSTATE COMMERCE COMMISSION, Division 5, held at its office in Washington, D. C., on the 11th day of July, A. D., 1949

AFTER DUE INVESTIGATION, It appearing that the above-named carrier has complied with all applicable provisions of the Interstate Commerce Act, and the requirements, rules, and regulations prescribed thereunder, and, therefore, is entitled to receive authority from this Commission to engage in transportation in interstate or foreign commerce as a motor carrier; and the Commission so finding;

IT IS ORDERED, That the said carrier be, and it is hereby, granted this Certificate of Public Convenience and Necessity as evidence of the authority of the holder to engage in transportation in interstate or foreign commerce as a common carrier by motor vehicle; subject, however, to such terms, conditions, and limitations as are now, or may hereafter be, attached to the exercise of the privileges herein granted to the said carrier.

IT IS FURTHER ORDERED, That the transportation service to be performed by the said carrier in interstate or foreign commerce shall be as specified below:

REGULAR ROUTES:

General commodities, except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17, M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading,

Between Chicago, Ill., and Omaha, Nebr., as follows:

From Chicago over Alternate U. S. Highway 30 to junction U. S. Highway 30, thence over U. S. Highway 30 to Denison, Iowa, thence over Iowa Highway 141 to Sioux City, Iowa, and thence over U. S. Highway 75 to Omaha (also from Denison over U. S. Highway 30 to Missouri Valley, Iowa, thence over U. S. Highway 75 to Omaha).

From Chicago over U. S. Highway 34 to junction Illinois Highway 92, thence over Illinois Highway 92 to junction Illinois Highway 82, thence over Illinois Highway 82 to Geneseo, Ill. (also from Chicago over U. S. Highway 34 to junction U. S. Highway 6, thence over U. S. Highway 6 to Geneseo), thence over U. S. Highway 6 via Iowa City, Iowa, to Atlantic, Iowa, thence over Iowa Highway 83 to Avoca, Iowa, thence over Iowa Highway 64 to Council Bluffs, Iowa, and thence across the Missouri River to Omaha (also from Atlantic over U. S. Highway 6 to Omaha).

From Chicago to Iowa City, as specified above, thence over U. S. Highway 218 to Mount Pleasant, Iowa, thence over U. S. Highway 34 to Glenwood, Iowa, and thence over U. S. Highway 275 to Council Bluffs, Iowa, and thence across the Missouri River to Omaha (also from Glenwood over U. S. Highway 34 to Plattsmouth, Nebr., thence over U. S. Highway 73 to Omaha.)

Return over these routes to Chicago.

Service is authorized from the off-route point of Joliet, Ill., restricted to pick-up of only *wall paper* and *steel wire*.

[fol. 2550] Between Cedar Rapids, Iowa and Iowa City, Iowa:

From Cedar Rapids over U. S. Highway 218 to Iowa City, and return over the same route.

Between Marengo, Iowa, and Belle Plaine, Iowa:

From Marengo over Iowa Highway 212 to Belle Plaine, and return over the same route.

Between Marshalltown, Iowa, and Des Moines, Iowa:

From Marshalltown, Iowa over Iowa Highway 330 to junction Iowa Highway 64, thence over Iowa Highway 64 to Des Moines, and return over the same route.

Service is authorized to and from all intermediate points in Iowa.

Between Avoca, Iowa, and Des Moines, Iowa:

From Avoca over Iowa Highway 64 to Des Moines, and return over the same route.

Service is authorized to and from all intermediate points.

Packing-house products and *fresh meat*:

Between Omaha, Nebr., and Arcadia, Iowa:

From Omaha over U. S. Highway 75 to Missouri Valley, Iowa, thence over U. S. Highway 30 to junction Iowa Highway 285, and thence over Iowa Highway 285 to Arcadia, and return over the same route.

Service is authorized to and from all intermediate points; and the off-route points of Audubon, Brayton, Defiance, Earling, Elkhorn, Exira, Guthrie Center, Hamlin, Halbur, Hancock, Jacksonville, Kimballton, Manilla, Manning, Shelby and Walnut, Iowa.

IRREGULAR ROUTES, traversing New Jersey, Ohio, Connecticut, and Rhode Island, for operating convenience only:

Fresh meats, packing-house products and *packing-house supplies,*

Between Dunlap, Iowa, and Panama, Portsmouth and Persia, Iowa.

Between Denison, Iowa, and Deloit, Iowa.

Between Arcadia, Iowa, and Botna and Irwin, Iowa.

Between Harlan, Iowa, and Panora, Iowa.

Service authorized under this commodity description is restricted to traffic moving to or from Omaha, Nebr.

Butter, eggs and *dressed poultry,* minimum 16,000 pounds each from any one consignor.

From Omaha, Nebr., and points and places within 100 miles of Omaha, to New York, N. Y., Philadelphia, Pa., and Boston, Mass.

[fol. 2551] *General commodities,* except those of unusual value, and except dangerous explosives, livestock, household goods as defined in *Practices of Motor Common Carriers of Household Goods,* 17 M.C.C. 467, commodities in bulk, and those requiring special equipment,

From New York, N. Y., to Chicago, Ill.

Mica splittings and dust,

From New York, Cohoes and Utica, N. Y., to Valparaiso, Ind.

Return, with no transportation for compensation except as otherwise authorized, to the above-specified origin points.

Regular and Irregular Routes:

Butter, eggs, dressed poultry, and *agricultural commodities,*

From Avoca, Harlan and Exira, Iowa, to Chicago, Ill.:

From Avoca, Harlan and Exira over irregular routes to Atlantic, Iowa, and thence over the above-specified regular routes to Chicago, with no transportation for compensation on return except as otherwise authorized.

Service is not authorized to or from intermediate points.

Any repetition in the statement of the authority granted herein shall not be construed as conferring more than a single operating right.

IT IS FURTHER ORDERED, and is made a condition of the certificate that the holder thereof shall render reasonably continuous and adequate service to the public in pursuance of the authority herein granted, and that failure so to do shall constitute sufficient grounds for suspension, change, or revocation of this certificate.

AND IT IS FURTHER ORDERED, That this certificate shall supersede the certificates issued to the above-named carrier under Docket Nos. MC 47619 on February 11, 1944, MC 47619 Sub 2 on October 19, 1942, and MC 47619 Sub 6 on September 24, 1946, and those issued to the predecessor-in-interest under Docket Nos. MC 61530 on March 20, 1941, and MC 61530 Sub 1 on September 9, 1940; and said certificates are hereby canceled.

By the Commission, division 5.

W. P. Bartel, Secretary.

(SEAL)

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* This certificate embraces the operating rights granted the above-named carrier in Certificates Nos. MC 47619, MC 47619 Sub 2 and MC 47619 Sub 6, and those in Certificates Nos. MC 61530 and MC 61530 Sub 1, acquired by the above-named carrier pursuant to MC-F 3860.

[fol. 2552] EXHIBIT No. 28

IOWA NEBRASKA
TRANSPORTATION CO. INC.
Avoca, Iowa Phones 8 - 83 - 88

FINANCIAL STATEMENT AS OF MARCH 31, 1952

Assets:	
Cash on Hand and in Bank	$ 15180.57
Accounts Receivable	54826.57
Carrier Operating Property	194944.62
Special Deposits	4650.00
Permits	2500.00
Material & Supplies	6065.92
Prepayments	16501.55
	$294669.23
Liabilities:	
Capital Stock	10000.00
Surplus	65453.90
Reserve for Depreciation	104214.64
Accounts Payable	42826.40
Notes Payable	42234.00
Drafts Payable	29940.29
	$294669.23

[fol. 2553] EXHIBIT No. 29

IOWA NEBRASKA
TRANSPORTATION CO. INC.
Avoca, Iowa Phones 8 - 83 - 88

OPERATING STATEMENT AS OF MARCH 31, 1952

Freight Revenue		$253050.44
Other Operating Revenue		2555.91
Total Revenue		$255606.35
Payroll	$ 67080.85	
Rent	3880.00	
Interest	612.17	
Taxes & Licenses	8393.32	
Donation	55.15	
Depreciation	8263.27	
Equipment Maintenance	7885.93	
Transportation Expense	124520.55	
Terminal Expense	3453.41	
Sales, Tariff & Advertising	3779.79	
Insurance & Safety	13496.64	
Administrative & General	9790.26	$251211.34
Net Operating Income		4395.01

This is to certify that this is a true and correct operating statement for the Iowa-Nebraska Transportation Co., Inc. for the period January 1, 1952 to March 31, 1952.

/s/ E. S. Petersen, President.

[fol. 2554] EXHIBIT No. 30

SHIPPER WITNESSES WHO APPEARED IN SUPPORT OF ROCK ISLAND MOTOR TRANSIT APPLICATION MARCH 18, 1952 THROUGH APRIL 1, 1952

AMANA, IOWA

Carl Moerabel, Amana, Iowa
Auditor of Amana Society

ADAIR, IOWA

W. R. Wolverton, Adair, Iowa
International Harvester Dealer
Fred Mertes, Adair, Iowa
Manager of Farmers Lumber Company

ALTOONA, IOWA

G. M. Hartline, Altoona, Iowa
Service Station and Garage

ANITA, IOWA

Carl W. Johnson, Anita, Iowa
Power Co. and Water Works
Tom Burns, Anita, Iowa
John Deere Dealer

ATALISSA, IOWA

Waldo Elder, Atalissa, Iowa
Lumber Yard

ATLANTIC, IOWA

O. A. Mereith, Atlantic, Iowa
Hardware and Implements
Bruce Robinson, Atlantic, Iowa
Retail Hardware
Don C. Mitchell, Atlantic, Iowa
Atlantic Wholesale Grocery
Maurice Turner, Atlantic, Iowa
Parts Manager for Link Chevrolet
Lewis J. Walker, Atlantic, Iowa
Secretary Atlantic Chamber of Commerce

AUDUBON, IOWA

N. C. Nielson, Audubon, Iowa
Five and a Dollar Store
Edwin Tuewelldorf, Audubon, Iowa
Coast to Coast Store

BEATRICE, NEBRASKA

R. W. Bagby, Beatrice, Nebraska
Dempster Mills Manufacturing Company

BRAYTON, IOWA

Ormal Rasmussen, Brayton, Iowa
Retail Lumber Yard

BROOKLYN, IOWA

J. L. McCluskey, Brooklyn, Iowa
Y. and M. Hardware
H. H. Mastiller, Brooklyn, Iowa
Hardware Business
D. M. Hubbard, Brooklyn, Iowa
Lumber Yard
Vernon Wolfe, Brooklyn, Iowa
Mayor

BURLINGTON, IOWA

F. L. Partridge, Burlington, Iowa
Burlington's Suppers Association

CASEY, IOWA

Howard Mark, Casey, Iowa
Mark Hardware
O. E. Hayes, Casey, Iowa
Merchant

[fol. 2555] CARSON, IOWA

Fred Reed, Carson, Iowa
Lumber Yard

CEDAR RAPIDS, IOWA

Arthur J. Maurer, Chicago, Ill.
Asst. Traffic Director Chicago Association of Commerce
D. R. MacDonald, Palatine, Ill.
Traffic Mgr. Chicago Branch of Butler Bros.
(Wholesale Gen'l Merchan

Bernard J. Lussa, Chicago, Ill.
Traffic Manager Rexall Drug
W. R. Hoppe, Chicago, Ill.
Traffic Manager for A. C. McClurg & Co.
(Wholesale School Supplies)

CLINTON, IOWA

Thomas H. Smith, Clinton, Iowa
Traffic Manager Clinton Foods, Inc.
A. C. Shaw, Clinton, Iowa
Traffic Manager Curtis Co.
Robert E. Tolman, Clinton, Iowa
Eclipse Lumber Co.

COLFAX, IOWA

Frank Carlson, Colfax, Iowa
Department and Variety Store
George Brenner, Colfax, Iowa
President of Colfax Mineral Springs
Howard Loehr, Colfax, Iowa
Monroe Co.

COLUMBUS JUNCTION, IOWA

Paul B. Smith, Columbus Junction, Iowa
Stationery Manufacturer

CORALVILLE, IOWA

Mrs. Dan Fesler, Coralville, Iowa
Dan's Wholesale Foods

COUNCIL BLUFFS, IOWA

Gerald Ball, Council Bluffs, Iowa
Manufacture hammers for Hammer Mills

DAVENPORT, IOWA

Frank J. Schunter, Davenport, Iowa
Salesman for May and Co.
(Wholesale Plumbing & Heating)
Grover Schneckloth, Davenport, Iowa
Lbr. Yards located at *Wolcott*, *Durant* and *Sunberry*.
George A. Hirl, Davenport, Iowa
Salesman for Walnut Grove Animal & Mineral Feed
at *Wolcott*.

DES MOINES, IOWA

Fred Triggs, 200 Plymouth Building, Des Moines, Iowa
Manufacturer's Agent
Louie Lamberto, Des Moines, Iowa
Traffic Manager Brown-Camp Hardware
Leo Sharpnack, West Des Moines, Iowa
Clerk, Des Moines Drug Co.
Leon Brody, Des Moines, Iowa
Brody Manufacturing Co.
R. M. Griffith, Des Moines, Iowa
Luthe Hardware
Carl A. Hansen, Des Moines, Iowa
Traffic Mgr. Des Moines Chamber of Commerce
Carl W. Reed, Des Moines, Iowa
Iowa Commerce Commission

DEXTER, IOWA

Graham Godby, Dexter, Iowa
John Deere dealer

[fol. 2556] DURANT, IOWA

Lester Turner, Durant, Iowa
Manager of Farmers Cooperative

EXIRA, IOWA

H. A. Lensch, Exira, Iowa
Oliver Farm Equipment
Ronald Spor, Exira, Iowa
Retail Hardware and Wholesale Electrical Supplies.

FAIRFIELD, IOWA

John W. Lindauer, Fairfield, Iowa
Traffic Manager Lowden Manufacturing Co.
L. Bissig, Fairfield, Iowa
Traffic Clerk, Iron Co.

GRINNELL, IOWA

Arthur Wee, Grinnell, Iowa
Firestone Store
M. F. Zimmerman, Grinnell, Iowa
Hardware Dealer
Earl Mathews, Grinnell, Iowa
Drug Store
Lewis W. Phelps, Grinnell, Iowa
Manufacturer (Playground Equipment)

Mr. Ritters, Grinnell, Iowa
Hardware Dealer
Walter H. McKan, Grinnell, Iowa
Fariety Store
Paul Brink, Grinnell, Iowa
Schoe Manufacturer

GRISWOLD, IOWA

R. L. Cocklin, Griswold, Iowa
Manufacturer of Oil Heaters and Power Mowers.

HAMLIN, IOWA

Carl Christofferson, Hamlin, Iowa
Grocery and Locker Plant
Earnest Petersen, Hamlin, Iowa
Grocery and General Store

HANCOCK, IOWA

William Ebert, Hancock, Iowa
Tires and Petroleum Products

HARLAN, IOWA

John H. Fredrickson, Harlan, Iowa
Wholesale Distributor
J. D. Brodderson, Harlan, Iowa
Auto Dealer

IOWA CITY, IOWA

Robert L. Gage, Iowa City, Iowa
Sec'y and Manager Iowa City Chamber of Commerce
Howard P. Jacobs, Iowa City, Iowa
Lumber and Building Supplies
James H. Mesicth, Iowa City, Iowa
Wholesale Plumbing and Heating
Jacob P. Wagmuller, Iowa City, Iowa
Baron Auto
Truman Slager, Iowa City, Iowa
Hardware and Implements

KANSAS CITY, MISSOURI

David P. Crooks, Kansas City, Mo.
Crooks Terminal Warehouse
J. A. O'Conner, Kansas City, Mo.
Montgomery-Ward

B. J. Kilmer, Kansas City, Missouri
Sinclair—Western District

[fol. 2557] KALONA, IOWA

Arthur Beranek, Kalona, Iowa
Implement Dealer
Paul Breneman, Kalona, Iowa
Farm Machinery and Implements
W. L. Gates, Washington, Iowa
John Deere Dealer at Kalona
Ellis Swartzendruber, Kalona, Iowa
Treasurer of Watkins County Farms Store

KELLOGG, IOWA

Don Foster, Kellogg, Iowa
Midwest Stamping Co.

LADORA, IOWA

Victor Hess, Ladora, Iowa
Ladora Lumber and Fuel

LEWIS, IOWA

Riley Clark, Lewis, Iowa
Ferguson Implements and Garage

LA GRANGE PARK, ILLINOIS

Robert Ozinga, La Grange Park, Illinois
Wholesale Groceries

MALCOM, IOWA

Lester Schniekloth, Malcom, Iowa
Garage
Allen Kies, Malcom, Iowa
Plumbing

MARNE, IOWA

B. Wheatley, Marne, Iowa
General Store

MARENGO, IOWA

Charles H. Hibbs, Marengo, Iowa
Dry Goods
Clarence Rathjen, Marengo, Iowa
Automobile Parts
Everett L. Jacobs, Marengo, Iowa
Western Auto Store

MASON CITY, IOWA

Ralph Shielton, Mason City, Iowa
Traffic Manager for Chamber of Commerce

MENLO, IOWA

Edith Blakesly, Menlo, Iowa
Fariety Store and Dry Goods

MINDEN, IOWA

Wesley C. Mauer, Minden, Iowa
Hardware

MINNEAPOLIS, MINNESOTA

Henry A. Archambro, Minneapolis, Minn.
Asst. Director of Traffic—Minneapolis Traffic Association
C. E. Lindberg, Minneapolis, Minnesota
Traffic Manager, Jennings-Simple-Hill

MITCHELLVILLE, IOWA

Lewis C. Wilhenbrock, Mitchellville, Iowa
International Harvester Dealer

MOLINE, ILL.

Paul E. Gans, Moline, Ill.
Supervisor for Truck Transporation for Deere and Co.
H. A. Stevens, Moline, Ill.
John Deere Plow Co.

[fol. 2558] MUSCATINE, IOWA

R. L. Sweany, Muscatine, Iowa
Secretary of Chamber of Commerce
James A. Gould, Muscatine, Iowa
Hawkeye Soybean Co. and McKey Feed and Grain Co.

NEWTON, IOWA

H. H. Witmer, Newton, Iowa
Superintendent One-Minute Washer at Kellogg, Iowa
F. A. Dunn, Newton, Iowa
Manufacturer of Advertising Specialties
Glen Engle, Newton, Iowa
Winpower Mfg. Co.
Homer W. Denniston, Newton, Iowa
Denniston-Partridge Lumber Co.

NEOLA, IOWA

Clinton Erickson, Neola, Iowa
Implement Dealer

OMAHA, NEBRASKA

J. J. Hartett, Omaha, Nebraska
Traffic Mgr. for Paxton & Gallagher
Paul E. Seastedt, Omaha, Nebraska
Mfgr. Storage Batteries
H. E. Hennicamp, Omaha, Nebraska
Mgr. Transportation Dept. Omaha Chamber of Commerce

OSKALOOSA, IOWA

Bruce Thomas, Oskaloosa, Iowa
Ideal Mfg. Co.
C. R. Smith, Jr. Oskaloosa, Iowa
Iowa Valve Co.

OXFORD, IOWA

Don Scheetz, Oxford, Iowa
Watkins Products
V. F. Nieberhr, Oxford, Iowa
Hardware and Implements

OTTUMWA, IOWA

John Murray, Ottumwa, Iowa
Traffic Manager of Chamber of Commerce

OAKLAND, IOWA

C. C. Vieth, Oakland, Iowa
Hardware and Funeral Home
A. H. Minchow, 6 mi. East of Oakland, Iowa
Supt. Northern Gas Line

PELLA, IOWA

Paul Farber, Pella, Iowa
Treasurer of Rolscreen Co.
J. G. Boot, Pella, Iowa
Dowden Mfg. Co., Prairie City, Iowa
Pella Foundry, Pella, Iowa

ROCK ISLAND, ILL.

Charles H. Pahl, Rock Island, Ill.
Gen'l Supt. Rock Island Bridge and Iron Works

Harold C. Woodward, Rock Island, Ill.
Mgr. of Traffic Bureau for Moline, East Moline & Rock Island.

SHELBY, IOWA

Harry P. Pike, Shelby, Iowa
Garage Operator—Mayor
Earnest Plagman, Shelby, Iowa
Retired Farmer

STUART, IOWA

Edward J. Delaney, Stuart, Iowa
Hardware and Appliances
Plumbing and Heating

[fol. 2559] ST. JOSEPH, MISSOURI

Victor L. Emery, St. Joseph, Mo.
St. Joseph Chamber of Commerce

TIFFIN, IOWA

A. C. Flansburg, Tiffin, Iowa
Hardware—and President of School Board

TREYNOR, IOWA

Harvey Saar, Treynor, Iowa
Treasurer West Pott Seed Corporation

UNDERWOOD, IOWA

G. C. Martin, Underwood, Iowa
General Store

VICTOR, IOWA

H. H. Wahl, Victor, Iowa
Retail Lumber
A. U. Hauber, Victor, Iowa
Pastor of St. Bridges Church
John DeSutter, Victor, Iowa
Victor Implement and Seed
John Powlak, Victor, Iowa
Allis-Chalmers and Implements

WALNUT, IOWA

Sherwood M. Croghan, Walnut, Iowa
Mayor and Raleigh Salesman

WASHINGTON, IOWA

T. B. Brown, Washington, Iowa
Supt. American Pearl Button Co.

WELLMAN, IOWA

W. S. Trieschman, Wellman, Iowa
Maplecrest Turkey Farms
L. J. Powell, Wellman, Iowa
Furniture and Undertaker

WEST LIBERTY, IOWA

E. C. Kerr, West Liberty, Iowa
Lumber, Hardware and Implements
Thomas C. Brooke, West Liberty, Iowa
Bulk Oil and Tire Distributor

WILTON JUNCTION, IOWA

Lester Crumley, Wilton Junction, Iowa
Foundry at Stockton, Iowa
Herbert Moeller, Wilton Junction, Iowa
Western Auto Store
Ivan Gorsuch, Wilton Junction, Iowa
Retail Plumbing and Heating

WALCOTT, IOWA

Lester Lund, Walcott, Iowa
John Deere Dealer
Ervin L. Diets, Walcott, Iowa
Ford Agency
Riley Diets, Walcott, Iowa
Electrical Appliances
Clarence Lovewell, Walcott, Iowa
Plumbing and Heating
Kenneth Diets, Walcott, Iowa
Banker

[fol. 2560] ROCK ISLAND MOTOR TRANSIT
INTERLINE CARRIER WITNESSES

George B. Bishop, Chicago, Illinois
Assistant Manager of Clipper Transit Company
V. J. Grice, 966 Victoria, Dubuque, Iowa
H. & W. Motor Express

M. J. Riley, Rock Island, Ill.
V.P. and Traffic Manager, Doran Transfer Co.
Keith Cecil, Bloomfield, Ill.
Central Transfer Co.
William J. Creagean, Rockford, Ill.
Mnox Motor Service
George E. Adams, Kewanee, Illinois
Traffic Mgr. for Burlington-Chicago Cartage, Inc.
and Chicago Nebraska Express and
Burlington Terminal Warehouse
and other affiliates.
Herman H. Weixler, Louisville, Kentucky
Atkins Transfer Company

[fol. 2561] ROCK ISLAND MOTOR TRANSIT COMPANY
WITNESSES

J. D. Farrington, Chicago, Illinois
George M. Cummins, Davenport, Iowa
Freight Traffic Manager
C. A. Kinner, Chicago, Ill.
C.R.I.M.T. Terminal Manager
Gail C. Hughes, Davenport, Iowa
Terminal Mgr. R.I.M.T. at Davenport
L. L. Cole, Des Moines, Iowa
Auditor R.I.M.T.
Manferd A. Rice, Atlantic, Iowa
Agent for R.I.M.T. at Atlantic
Craig Schwab, Iowa City, Iowa
Terminal Agent R.I.M.T. ad Iowa City
Walter Hitchen, Des Moines, Iowa.
R.I.M.T. Gen. Freight Agent
Burr M. Jones, Newton, Iowa
R.I.M.T. Agent at Newton
Charles Clapp, Ottumwa, Iowa
Terminal Mgr. R.I.M.T.
Ray W. Grabill, Minneapolis, Minn.
Commercial Agent Rock Island Motor Transit
O. E. Schaefer, Cedar Rapids, Iowa
Rock Island Motor Transit Agt. in Cedar Rapids

Harry Millstead, Oskaloosa, Iowa
Agent for Rock Island Motor Transit
Harold Stolley, Clinton, Iowa
Terminal Agent R.I.M.T.
Leonard H. Blumer, Omaha, Nebr.
R.I.M.T. Commerical Agent at Omaha
V. A. Tiedemann, Des Moines, Iowa
Rock Island Mtr. Transit Agent at Des Moines
W. F. Peterson, Des Moines, Iowa
General Manager Rock Island Motor Transit.
Fred J. Millett, Des Moines, Iowa
Assistant to General Freight Agent

[fol. 2562] EXHIBIT No. 31

IOWA-NEBRASKA TRANSPORTATION CO., INC.

	Pro No.	Date	Origin	Destination	Commodity	Weight
OM	51004	9/27/51	Omaha	Harlan	frzoen food	346
	51010	9/27/51	Omaha	Stuart	machinery parts	120
	51012	9/27/51	"	Avoca	coffee	206
	51015	9/27/51	"	Atlantic	new furniture	420
	51016	9/27/51	"	Oakland	drugs	304
	51017	9/27/51	"	Walnut	new washer	191
	51021	9/27/51	"	Anita	tires	70
	51034	9/27/51	"	Casey	oil & grease	2088
	51042	9/27/51	"	Marne	sink cabinet	269
	51050	9/27/51	"	Menlo	corn crib	1500
	51051	9/28/51	Harlan	St. Louis	Fertilizer in pots	120
	51052	9/28/51	Oakland	K.C., Mo.	lawn mower	180
	51053	9/28/51	Lincoln	Harlan	slaes tickts	275
	51056	9/28/51	Omaha	Avoca	Hydraulic Scoop	1080
	51059	9/28/51	Omaha	Atlantic	iron pipe	798
	51103	9/28/51	Omaha	Oakland	plumbing goods	942
	51107	9/28/51	Omaha	Adair	fuel tanks	450
	51111	9/28/51	Lincoln	D. Moines	printed forms	130
	51117	9/28/51	Omaha	D. Moines	beauty sply	100
	51123	9/29/51	Sioux City	Harlan	dryer	238
	51132	9/29/51	Chicago	Oakland	tools	42
	51134	9/29/51	K.C., Mo.	Atlatic	Tires	360
	51140	10/ 1/51	Omaha	Oakland	elec refrig	517
	51141	10/ 1/51	"	Avoca	butter boxes	800
	51148	10/ 1/51	"	Walnut	drugs	100
	51153	10/ 1/51	"	Adair	shampoos	32
	51159	10/ 1/51	"	D. Moines	radiator	200
	51168	10/ 1/51	"	Casey	coffee	135
	51172	10/ 1/51	"	Anita	pipe fittings	45
	51200	10/ 2/51	"	Menlo	window shades	55
	51201	10/ 2/51	"	Harlan	cigarettes	95
	51206	10/ 2/51	"	Atlantic	heater	530
	51275	10/ 3/51	"	Dexter	varnish	50

IOWA-NEBRASKA TRANSPORTATION CO., INC.

Pro	No.	Date	Origin	Destination	Commodity	Weight
OM	51279	10/ 3/51	Omaha	Avoca	tlelevision set	103
	51291	10/ 3/51	"	Neola	steel cabinet	100
	51297	10/ 3/51	"	D.M.	flooring	100
	51304	10/ 3/51	"	Adair	coffee	290
	51305	10/ 3/51	"	Atlatnic	coffee	138
	51321	10/ 3/51	"	Harlan	drugs	156
	51341	10/ 4/51	"	Oakland	heater	205
	51344	10/ 4/51	"	Walnut	motor	290
	51347	10/ 4/51	"	Wiota	oil	150
	51349	10/ 4/51	"	Casey	iip parts	73
	51417	10/ 5/51	"	Underwood	paper	581
	51422	10/ 5/51	"	Harlan	auto parts	41
	51437	10/ 5/51	"	Atlantic	2 chairs	40
	51464	10/ 6/51	"	D. Moines	repair material	182
	51509	10/ 8/51	"	Stuart	oxygen gas	240
	51510	10/ 8/51	"	Anita	tires	54
	51513	10/ 8/51	"	Oakland	hardware	71
	51524	10/ 8/51	"	Marne	coffee	468
	51525	10/ 8/51	"	Harlan	oil burner	120
	51528	10/ 8/51	"	Atlantic	elec dryer	230
	51584	10/ 9/51	"	Adair	iron bars	463
	51587	10/ 9/51	"	Neola	rug	42
	51633	10/ 9/51	"	Casey	groceries	330
	51645	10/ 9/51	"	D. Moines	sales tickets	1820
	51667	10/10/51	"	Newton	steel	6505
	51669	10/10/51	"	Walnut	groceries	3670
	51689	10/10/51	"	Avoca	stove	104
	51696	10/10/51	"	Menlo	hardware	206
	51713	10/10/51	"	Des Moines	beauty sply	61
	51740	10/11/51	"	Grinnell	groceries	265
	51759	10/11/51	"	Harlan	drugs	282
	51778	10/12/51	"	Oakland	parts	47
	51798	10/12/51	"	Atlantic	hardware	188
	51811	10/13/51	"	Corley	coffee	405

[fol. 2563]

OM	51830	10/13/51	Omaha	Wiota	iron	109
	51841	10/13/51	"	D. Moines	tires	60
	51869	10/13/51	"	Colfax	groceries	650
	51909	10/15/51	"	Adair	sheet steel	150
	51911	10/15/51	"	Avoca	vac cleaner	89
	51925	10/15/51	"	Stuart	coffee	407
	51933	10/15/51	"	Casey	paint	411
	51955	10/16/51	"	Anita	hardware	263
	51974	10/16/51	"	Marne	welding rod	100
	52009	10/16/51	"	Neola	glav. pipe	300
	52021	10/16/51	"	Grinnell	pltry tonic	37
	52031	10/17/51	"	Walnut	auto parts	65
	52036	10/17/51	"	Oakland	roofing cement	135
	52097	10/17/51	"	Avoca	inan parts	77
	52122	10/18/51	"	Menlo	Hardware	952
	52173	10/18/51	"	Marengo	sales tickets	42
	52185	10/19/51	Lincoln	Atlantic	T.V. Set	49
	52190	10/19/51	Omaha	Harlan	drugs	100
	52195	10/19/51	"	Davenport	Burners	160
	52213	10/19/51	"	Brooklyn	mach parts	88
	52228	10/19/51	"	Dexter	coffee	508
	52262	10/19/51	"	Minden	hog foundtain	235

IOWA-NEBRASKA TRANSPORTATION CO., INC.

	Pro No.	Date	Origin	Destination	Commodity	Weight
OM	52271	10/20/51	Omaha	D. Moines	couch	164
	52278	10/22/51	Lincoln	Davenport	sales tickets	154
	52339	10/22/51	Omaha	Harlan	tires	169
	52347	10/23/51	"	Avoca	baekry goods	60
	52373	10/23/51	"	Marne	pipe fittings	40
	52374	10/23/51	"	Atlantic	iron pipe	154
	52393	10/23/51	"	Wiota	transite hose	227
	52393	10/23/51	"	Oakland	imp parts	110
	52411	10/23/51	"	Colfax	bakery supplies	225
	52421	10/24/51	Lincoln	Iowa City	sales tickets	120
	52439	10/24/51	Omaha	Grinnell	beauty supplies	48
	52475	10/24/51	"	Des Moines	tubes	456
	52500	10/24/51	"	Avoca	drugs	92
	52563	10/25/51	"	Stuart	pump jack	65
	52578	10/26/51	"	Harlan	permaulite	1600
	52606	10/26/51	Moline	Neola	imp parts	120
	52632	10/27/51	Omaha	Dexter	beauty splys	51
	52638	10/27/51	Lincoln	Marengo	sales tickets	110
	52641	10/27/51	Omaha	Des Moines	paper	90
	52679	10/29/51	K.C., Kans.	Corley	soap	347
	52691	10/29/51	Omaha	Minden	disk	200
	52766	10/30/51	Chicago	Minden	groceries	203
	52776	10/30/51	Omaha	D. Moines	tires	385
	52780	10/30/51	"	Victor	farm wagon	430
	52782	10/30/51	Omaha	Marne	pipe fittings	121
	52789	10/30/51	Omaha	Casey	groceries	375
	52830	10/31/51	"	Avoca	tires and batteries	175
	52834	10/31/51	Chicago	Neola	groceries	315
	52845	10/31/51	Omaha	Adair	imp parts	35
	52853	10/31/51	"	Anita	elec motor	50
	52854	10/31/51	"	Wiota	steel	67
	52855	10/31/51	"	Oakland	paper	38
	52857	10/31/51	"	Davenport	saw	45
	52859	10/31/51	"	Walnut	rocker	75
	52861	10/31/51	"	Stuart	farm imps	929
	52866	10/31/51	"	Atlantic	tires	470
	52867	10/31/51	"	Brooklyn	perfex	213
	52871	10/31/51	"	Harlan	hoist	500
	52881	10/31/51	"	Casey	candy	152
	52884	11/ 1/51	"	D. Moines	oil	2994
	52885	11/ 1/51	"	Victor	perfex	663
	52946	11/ 1/51	"	Dexter	oil	830
	53048	11/ 3/51	"	Corley	stove	170
	53071	11/ 5/51	"	Underwood	tablets	35
	53072	11/ 5/51	"	Minden	gloves	48
	53094	11/ 5/51	"	Harlan	motor	185
	53144	11/ 5/51	"	Atlantic	imp parts	96
	53151	11/ 6/51	"	Brooklyn	vac cleaners	96

[fol. 2564]

OM	53194	11/ 6/51	Omaha	Neola	brass fittings	50
	53198	11/ 6/51	"	Grinnell	beauty supplies	105
	53222	11/ 7/51	"	Oakland	auto parts	63
	53226	11/ 7/51	Lincoln	Newton	printed forms	90
	53259	11/ 7/51	Omaha	Iowa City	motor base	100
	53296	11/ 8/51	"	Walnut	bakery goods	100
	53373	11/ 9/51	"	Avoca	grease	252
	53387	11/ 9/51	"	Marne	bakery goods	70

IOWA-NEBRASKA TRANSPORTATION CO., INC.

Pro No.	Date	Origin	Destination	Commodity	Weight
OM 53429	11/10/51	Omaha	Wiota	range	300
53505	11/12/51	"	Anita	hardware	250
53515	11/12/51	"	Grinnell	grease	576
53635	11/14/51	"	D. Moines	metal tops	195
53704	11/15/51	"	Adiar	soap	224
53713	11/15/51	"	Grinnell	bakery supplies	275
53850	11/17/51	"	Colfax	" "	262
53857	11/19/51	"	Casey	coffee	129
53892	11/19/51	"	Newton		200
54017	11/21/51	"	Davenport	wahser	200
54039	11/21/51	"	Stuart	mach parts	45
54087	11/21/51	"	Marengo	anti freeze	197
54147	11/24/51	"	Menlo	hardware	1171
54151	11/24/51	"	Underwood	pipe fittings	420
54202	11/26/51	"	Davenport	rubber tile	100
54386	11/28/51	"	Dexter	coffee	171
54417	11/29/51	"	Grinnell	grease	664
54422	11/29/51	"	Avoca	candy	241
54441	11/29/51	"	Des Moines	beauty sply	95
54462	11/29/51	"	Des Moines	auto chains	300
54482	11/30/51	"	Harlan	heater	270
54520	12/ 1/51	"	Walnut	transformers	175
54560	12/ 3/51	"	Oakland	furniture	173
54585	12/ 3/51	Lincoln	Grinnell	candy	290
54598	12/ 3/51	"	Ia City	sales tickets	225
54601	12/ 3/51	"	Davenport	sales tickets	135
54609	12/ 3/51	Stuart, Ia.	Omaha	tires	80
54612	12/ 3/51	Omaha	Minden	table	100
54641	12/ 3/51	"	Newton	washer parts	100
54750	12/ 4/51	"	Des Moines	chains	620
54780	12/ 5/51	"	Corley	sash	45
54744	12/ 5/51	"	Neola	auto parts	52
54770	12/ 5/51	"	Grinnell	bicycles	62
54875	12/ 6/51	"	Marne	bar & bolts	315
54806	12/ 7/51	"	Atlantic	flour	750
54982	12/ 9/51	Omaha	Weston	tubs	100
54935	12/10/51	Colo. Spring, Colo.	Mitchellville	embalming fluid	65
54972	12/10/51	Beatrice, Nebr.	Newton	heater	100
55056	12/11/51	Omaha	Wiota	hydrants	75
55129	12/12/51	Omaha	Ia City	pipe	1850
55136	12/12/51	Omaha	D. Moines	auto parts	100
55201	12/13/51	Omaha	Anita	couch	310
55206	12/13/51	"	Davenport	floor tile	140
55296	12/15/51	"	Casey	coffee	403
55314	12/15/51	"	Underwood	chair	140
55338	12/17/51	"	Adair	storm shield	100
55351	12/17/51	Lincoln	Mitchellville	nuts	300
55353	12/17/51	Omaha	Menlo	coffee	138
55425	12/18/51	"	Des Moines	tires	380
55455	12/19/51	"	Stuart	imp parts	55
55520	12/20/51	"	Des Moines	floorin	140
55546	12/20/51	"	Davenport	toilte prep	59
55621	12/22/51	"	Grinnell	bakery goods	365
55630	12/22/51	"	Des Moines	bicycle parts	1611
55642	12/22/51	"	Dexter	batteries	280
55643	12/22/51	"	Colfax	bakery goods	268
55664	12/26/51	"	Oakland	T.V.Set	125

IOWA-NEBRASKA TRANSPORTATION CO., INC.

	Pro No.	Date	Origin	Destination	Commodity	Weight
M	55709	12/27/51	Omaha	Corley	coffee	405
	55727	12/27/51	"	Ia City	rug	80
	55741	12/27/51	"	Des Moines	fencer	100
	55758	12/27/51	"	Marne	iron pipe	150
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M	55776	12/28/51	Omaha	Avoca	mouldings	150
	55827	12/29/51	"	D. Moines	envelopes	195
	55859	12/29/51	"	Atlantic	tank heater	260
	55891	12/31/51	"	Grinnell	iron pipe	1130
	55897	12/31/51	"	Harlan	tires	410
	55921	1/ 2/52	Boise, Idaho	Newton	axles	470
	55933	1/ 2/52	Omaha	Walnut	Groceries	1691
	55988	1/ 3/52	"	Newton	Papper & supplies	185
	55997	1/ 3/52	"	Grinnell	oil	3180
	56007	1/ 3/52	"	Davenport	auto parts	26
	56019	1/ 3/52	"	Minden	lamps	224
	56041	1/ 3/52	Lincoln, Nebr.	Neola	sales tickets	100
	56093	1/ 4/52	Omaha	Colfax	soap	214
	56096	1/ 5/52	Lincoln, Nebr.	Ia City	range	540
	56103	1/ 5/52	Omaha	D. Moines	tubes	75
	56111	1/ 5/52	"	Ia City	shoe dressing	97
	56114	1/ 5/52	"	Wiota	air filters	30
	56163	1/ 7/52	"	Mitchellville	butter	60
	56175	1/ 7/52	San Fran., Calif.	Marengo	carpet	160
	56190	1/ 8/52	Omaha	Anita	hardware	227
	56199	1/ 8/52	"	Newton	washer parts	100
	56263	1/ 9/52	"	Marne	coffee	516
	56275	1/ 9/52	"	Adair	imp parts	3360
	56317	1/10/52	"	Casey	iron rods	64
	56360	1/11/52	"	Minden	soap	206
	56409	1/12/52	"	Des Moines	beauty supplies	48
	56428	1/12/52	"	Grinnell	agr insectidice	50
	56492	1/14/52	"	Ia City	paint	58
	56511	1/14/52	"	Mitchellville	butter	60
	56555	1/15/52	"	Corley	coffee	135
	56630	1/16/52	"	Stuart	oil	450
	56635	1/16/52	"	Des Moines	tires	1200
	56670	1/17/52	"	Menlo	coffee	138
	56812	1/19/52	"	Grinnell	disinfectant	54
	56851	1/19/52	"	Des Moines	phon records	100
	56963	1/22/52	"	Grinnell	oil	2146
	57002	1/23/52	"	Marne	galv pipe	261
	57011	1/23/52	"	Wiota	rubber shield	8
	57061	1/24/52	"	Casey	furniture	116
	57079	1/24/52	"	Stuart	Imp parts	500
	57083	1/24/52	"	D. Moines	machinery	221
	57108	1/24/52	"	Newton	sales binders	448
	57145	1/25/52	"	Atlantic	Hardware	43
	57155	1/25/52	Chicago	Atlantic	elec lamps	143
	57170	1/26/52	Lincoln	Iowa City	sales tickets	130
	57176	1/26/52	Omaha	D. Moines	flour	1515
	57186	1/26/52	"	Neola	roaster	30
	57195	1/26/52	Yankton, S.Dak.	Davenport	furniture	280
	57197	1/26/52	Omaha	Grinnell	pipe fittings	57
	57215	1/28/52	"	Harlan	farm mchy	2681
	57225	1/28/52	"	Grinnell	oil	2108

IOWA-NEBRASKA TRANSPORTATION CO., INC.

	Pro No.	Date	Origin	Destination	Commodity	Weight
OM	57250	1/28/52	Omaha	Oakland	coil wire	110
	57256	1/28/52	"	Mitchellville	butter	60
	57262	1/28/52	"	Adair	imp parts	265
	57270	1/28/52	"	Avoca	paint	84
	57299	1/29/52	"	Minden	chemicals	100
	57324	1/29/52	"	Walnut	hardware	278
	57364	1/30/52	"	Newton	steel bars	10390
	57418	1/31/52	"	Des Moines	beauty supplies	47
	57439	1/31/52	"	Wiota	T.V. Sets	462
	57448	1/31/52	"	Marne	steel bars	1190
	57455	1/31/52	"	Corley	lin rug	95
	57456	1/31/52	"	Menlo	rims	147
	57496	2/ 1/52	"	Atlantic	tires	440
	57510	2/ 1/52	Irene, S. Dak.	Underwood	oats	1300
	57539	2/ 2/52	Lincoln, Nebr.	Newton	sales tickets	160
	57549	2/ 2/52	Omaha	Casey	oil	2650
	57577	2/ 2/52	"	D. Moines	iron jacks	125

[fol. 2566]

OM	57650	2/ 4/52	Omaha	Mitchellville	butter	60
	57672	2/ 5/52	"	Des Moines	T.V. Set	150
	57674	2/ 5/52	"	Wiota	chains	154
	57684	2/ 5/52	"	Newton	beauty supply	55
	57713	2/ 5/52	St. Paul	Minden	candy	69
	57728	2/ 6/52	Omaha	Walnut	paint	750
	57760	2/ 6/52	"	Dexter	floor wax	138
	57761	2/ 6/52	"	Altoona	floor wax	143
	57770	2/ 6/52	"	Grinnell	beauty supplies	55
	57775	2/ 6/52	"	Neola	galv pipe	300
	57793	2/ 6/52	"	Des Moines	auto parts	40
	57797	2/ 6/52	Lincoln	Davenport	printed forms	60
	57828	2/ 7/52	Omaha	Brooklyn	wire	2040
	57896	2/ 8/52	"	Atlantic	hardware	657
	57937	2/ 9/52	"	Des Moines	hardware	81
	57940	2/ 9/52	"	Menlo	window shades	38
	57944	2/ 9/52	"	Grinnell	gas bottle equip	125
	58007	2/11/52	Virginia, Nebr.	Colfax	table	100
	58026	2/11/52	Omaha	Iowa City	iron pipe	630
	58038	2/11/52	"	Avoca	auto fender	30
	58042	2/11/52	"	Mitchellville	butter	60
	58083	2/12/52	"	Stuart	copper tubing	80
	58104	2/12/52	"	Des Moines	oil	684
	58110	2/12/52	"	Grinnell	paper	156
	58128	2/12/52	"	Corley	hardware	338
	58156	2/13/52	"	Des Moines	lamp bulbs	65
	58173	2/13/52	"	Colfax	coffee	202
	58177	2/13/52	"	Dexter	coffee	206
	58181	2/13/52	"	Iowa City	copper line	260
	58202	2/13/52	"	Anita	castings	95
	58240	2/14/52	"	Iowa City	printing matter	60
	58270	2/14/52	"	Menlo	dry goods	50
	58272	2/14/52	"	Oakland	drugs	240
	58274	2/14/52	"	Des Moines	phono records	45
	58275	2/14/52	"	Grinnell	phono records	100
	58276	2/14/52	"	Walnut	advertising	35
	58293	2/14/52	"	Colfax	coffee	406
	58305	2/15/52	"	Corley	coffee	404

IOWA-NEBRASKA TRANSPORTATION CO., INC.

Pro No.	Date	Origin	Destination	Commodity	Weight
58341	2/15/52	Omaha	Grinnell	gum	124
58344	2/16/52	"	Casey	candy	119
58345	2/16/52	"	Des Moines	repair materials	217
58364	2/16/52	"	Newton	phono records	50
58410	2/18/52	"	Grinnell	coffee	1013
58477	2/18/52	"	Mitchellville	butter	60
58493	2/19/52	"	Iowa City	flooring	210
58501	2/19/52	"	Davenport	drugs	184
58528	2/19/52	"	Marne	iron bars	215
58536	2/19/52	"	Grinnell	soap	592
58546	2/19/52	"	Des Moines	T.V. Sets	220
58567	2/20/52	"	Davenport	burner	80
58587	2/20/52	"	Grinnell	stair wks	442
58589	2/20/52	"	Grinnell	oil	914
58608	2/20/52	"	Davenport	toilet prep	69
58609	2/20/52	"	Des Moines	toilet prep	56
58616	2/20/52	"	Adair	imp parts	115
58647	2/21/52	"	Oakland	B.R. fixtures	129
58663	2/21/52	"	Marengo	paper	485
58677	2/21/52	"	Davenport	copper wire	86
58687	2/21/52	"	Victor	soap	708
58699	2/21/52	"	Neola	"	225
58700	2/21/52	"	Minden	"	608
58701	2/21/52	"	Marengo	"	211
58702	2/21/52	"	Grinnell	"	918
58703	2/21/52	"	Corley	"	235
58818	2/23/52	"	Anita	shampoo	48
58826	2/23/52	"	Brooklyn	tires	80
58838	2/23/52	"	Des Moines	T.V. Sets	960
58841	2/23/52	"	Wiota	antenna	32
58869	2/25/52	"	Atlantic	peanut butter	1441
l. 2567]					
58886	2/25/52	Omaha	Des Moines	flour	1212
58892	2/25/52	"	Iowa City	chair	45
58928	2/25/52	Denver	Davenport	paper	570
58937	2/25/52	Omaha	Menlo	notions	198
58943	2/26/52	"	Oakland	mtr parts	366
58949	2/26/52	"	Mitchellville	beauty sply	40
58950	2/26/52	"	Newton	"	28
58965	2/26/52	"	Marne	coffee	548
59012	2/26/52	"	Neola	pipe	145
59016	2/26/52	"	Casey	groc	720
59020	2/27/52	"	Walnut	iron	171
59068	2/27/52	"	Mitchellville	alum scoop	36
59081	2/27/52	"	Grinnell	oil	106
59123	2/28/52	"	Iowa City	play pen	35
59136	2/28/52	"	Harlan	cigarettes	126
59153	2/28/52	"	Des Moines	phono records	68
59169	2/28/52	"	Brooklyn	plaster moulds	58
59181	2/28/52	"	Des Moines	elec motor	118
59190	2/28/52	"	Grinnell	bakery goods	135
59223	2/29/52	"	Marne	dry goods	90
59236	2/29/52	"	Atlantic	ozsoilax	200
59279	3/ 3/52	"	Marne	floor wax	191
59300	3/ 3/52	"	Des Moines	flour	303
59321	3/ 3/52	"	Iowa City	flooring	60

LEGEND

(1) ——H & W Motor Express Co., Dubuque, Iowa
(2) —— McCoy Truck Lines, Waterloo, Iowa
(3) ////H. B. Green Trucking Co., Burlington, Iowa
(4) ——Burlington Truck Lines, Inc.
(5) ——Rock Island Motor Transit Company
(6) ///Brown Truck Line, Winterset, Iowa
(7) ——Brady Freight Lines, Fort Dodge, Iowa
(8) Worden Transfer, St Joseph, Mo.
(9) ——Des Moines Transportation Co.
——National Freight Lines

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The above motor carriers possess and operate the outlined routes in the State of Iowa in both Intra and Inter-State Commerce and interline with each other for such traffic.

1979

Exhibit No. 37

[fol. 2591]

DES MOINES TRANSPORTATION CO.

FROM CHICAGOILL TO DES MOINESIA DATE 1 9 51 A

DRIVER MIDDAUR TRACTOR TRAILER 346 SEAL NO. 79401/02

FREIGHT BILL NO.	SHIPPER	CONSIGNEE	DESTINATION	NO. PIECES	WEIGHT	REVENUE
652345	DMT	DMT		1	DH	
650439	DMT	DMT		1	DH	
650230	A O SMITH CORP	G W ONTHANK CO		11	2311	
650396	UNIN MALLBL MFG	SEARS ROEBUCK	DAVENPORT	3	756	
650398	KAISER FRAZER SLS	L DOCKTERMAN	DO	2	120	
650463	CARBOLOY CO	DVNPRT ENGR CORP	DO	1	101	
650462	DO	DO	DO	2	140	
650550	RCA VIC DIST	RCA VIC DIST	DO	5	72	
650556	BRISTOL MYERS	HICKEY BROS	DO	15	214	
650347	MTL OFC FURN	FROHWEIN SY CO	IOWA CITY	2	250	
650436	GENERAL FOODS	COOP GROC CO	DO	4	225	
650437	DO	MEANS BROS GROC	DO	4	240	
650512	AMRS INC	HOUSE O F PIPER	DO	13	464	
652312	CENTRAL STEEL	UNIVRSL ENGR CO	CED RAPIDS	3	9357	DP
650350	DAVIES YOUN SOAP	CHERRY BURRELL	DO	22	992	
650345	MTL OFC FURN	LF FEBURE CORP	DO	1	205	
650316	INDUSTRL GEAR	LINK BLT SPEEDR	DO	2	1880	
652115	GENERAL SHOE	I BUCKERBROAM STR	GRINNELL	20	692	
650511	BEATRICE FOODS	BEATRICE FOODS	DO	10	465	
650309	LINK BELT CO	DF KALB AGRI ASSO	DO	4	215	
650164	PAULY CHEESE	E A J C MC NALLY	DO	5	163	
652313	CENTRAL STEEL	MIDWST MTL STMPG	KELLOGG	5	4754	DP
650300	LAPHAM HICKEY	DO	DO	1	505	
650443	EXCELL O CORP	DO	DO	4	555	
650431	E J BRACH SONS	UNITED FOODS MKT	MARENGO	17	454	
652315	DENISON MFG CO	MAYTAG CO PL 1	NEWTON IA	3	134	
652329	PLANTERSNUT CH	NEWTON WHL CO	DO	8	198	
652314	DOHELER JARVIS	MAYTAG CO	DO	20	820	
650441	DMT	/DMT	DO	10	150	DH
650440	DMT	DO /DMT	DO	10	150	DH
650486	ALUM CO OF A	MAYTAG CO PL 2	DO	25	1219	

PEDDLE STOPS: DAVENPORT, IOWA CITY, CEDAR RAPIDS; TOTAL..... 27801
GRINNELL, KELLOGG, MARENGO, NEWTON IA.

DRIVER: BESURE TO ASK AT MAHER BROS IA CITY. IF THERE IS ANY WESTBOUND FREIGHT TO BE PICKED UP AND TRANSPORTED TO DM.

AN 10 1 48 AM '5

DES MOINES OFFICE COPY

No. 2591

1980

EXHIBIT No. 38

[fol. 2592]

DES MOINES TRANSPORTATION CO.

FROM CHICAGOILL TO DES MOINESIA DATE 1 3 51 A

DRIVER HINCKLEY TRACTOR TRAILER 82 SEAL NO. 78387/88

DRIVER: BE SURE TO ASK AT XXXX MAHER BROS IA CITY IF THERE IS ANY WESTBOUND FREIGHT TO BE PICKED UP AND TRANSPORTED TO DES MOINESIA.

FREIGHT BILL NO.	SHIPPER	CONSIGNEE	DESTINATION	NO. PIECES	WEIGHT	REVENUE
647663	MARS INC	DODGE CANDY		11	374	
647664	DO	H LEISEROWITZ CO		44	1591	
647665	DO	SERVICE CANDY		44	1553	
647667	DO	VETS HOSPTL/CNTN		4	147	
647668	DO	R GARRISON		16	600	
647670	DO	MYERS COX		16	576	
647673	DO	TRI STATE THEA CORP		40	560	
647675	DO	WINSTON NEWELL		99	3386	
647676	DO	NILES JONES		60	2114	
647677	DO	GORDONS WHL		35	1215	
647645	SOLA ELEC CO	STD NEON SPLY		35	997	
647674	MARS INC	WESTERN GROCER	MASON CY	8	281	
647669	DO	HUSHAW CANDY	CLR LKE	11	351	
647666	DO	MYERS COX	MASON CY	6	220	
647581	REPUBLIC RBR CO	GLOBE MACHY SPLY	DAVENPORT	3	224	
647592	LANDERS F CLAKR	GRAYBAR ELECCO	DO	7	210	
649647	NOVADEL AGENE	INTNTL MILLING	DO	10	170	
649683	OAK MFG CO	R C A DIST CO	DO	75	560	
647696	[illegible] CRANE CO	J W DARRAGH PLBG	UNIV HGHTS	3	650	
647642	GENERAL FOODS	SELF SERV GROC	IOWA CY	6	149	
647641	DO	WHITEWAY SPR MT	IOWA CITY	6	149	
647648	U S TOBACCO	RACINES	DO	7	67	
647570	WCHROEDER PAINT	PGH PLT GLASS	DO	1	225	
647658	MARS INC	S S KRESGE	DO	4	135	
647660	DO	RACINES CO	DO	7	253	
647659	DO	HOUSE OF PIPER	DO	13	464	
647662	DO	J NASH GROC	DO	13	473	
647661	DO	GRAFS BOTT WKS	DO	7	253	
647584	H WEIS MFG CO	WAGNER CONWELL	DO	2	134	
649670	J M HUBER CORP	PRESS CITIZEN	DO JAN 4	491	14[illegible]	
649722	B HELLER CO	SWANSK BARRY	DO	1	90	
647559	EX CELL O CORP	MIDWST MTL STMPG	KELLOGG	2	262	
[illegible]XX						
647569	KROHLER MFG CO	RATZELS FURN	MARENGO	5	433	
649454	H & K APPL CO	STYLE/ECONOMY CL	DO	1	300	
649637	GRIFFITH LABS	MARENGO ICE CO	DO	14	931	
647627	LONGMANS GREEN	COLLEGE BK STR	GRINNELL	3	115	
647572	J C PENNEY CO	J C PENNEY CO	DO	3	117	
647704	DELCO PRODS	MAYTAG CO	NEWTON IA	2	4752	CS
			TOTAL.....		26568	

PEDDLE STOPS: DAVENPORT, IOWA CITY, KELLOGG, MARENGO, GRINNELL, NEWTON IA.

PATD THE SHELBY SALESBOOK CO., SHELBY, OHIO △901

DES MOINES OFFICE COPY

No. 2592

1981

EXHIBIT No. 39

[fol. 2593]

DES MOINES TRANSPORTATION CO.

FROM CHICAGOILL TO KELLOGG IA [redacted] IA DATE 1 24 52A

DRIVER [illegible] TRACTOR 268 TRAILER 143 [redacted] SEAL NO 7308/09

	FREIGHT BILL NO.	SHIPPER	CONSIGNEE	DESTINATION	NO. PIECES	WEIGHT	REVENUE
	A143872	FAULTLESS CASTR	MIDWST MTL STMPG	KELLOGG	4	1094	
	A243872	TILLOTSON RBR	MIDWST MTL STMPG	DO	2	46	
	A243873	BRIDGPRT BRASS	DO	DO	3	848	

THIS IS ANOTHER MANIFEST ON THE SAME TRLR THAT CARRIED FRT FOR DES MOINES, DAVENPORT, IOWA CITY, CEDAR RAPIDS, & GRINNELL WITH A TOTAL WEIGHT OF 30382#

25 12 [illegible] 57

PEDDLE

PATD. — THE SHELBY SALESBOOK CO., SHELBY, OHIO △901

DES MOINES OFFICE COPY

No. 2593

1982

EXHIBIT No. 40

[fol. 2594]

DES MOINES TRANSPORTATION CO.

FROM CHICAGO ILL TO DAVENPORT IA DATE 2 21 52 JM

DRIVER TRACTOR TRAILER 102 SEAL NO 80491P050

FREIGHT BILL NO.	SHIPPER	CONSIGNEE	DESTINATION	NO. PIECES	WEIGHT	REVENUE
A147557	BRISTOL MYERS CO	BOND DRUG	DAVENPORT IA	29	425	
A147490	SUNBEAM CORP	GRAYBAR ELEC	DO	16	113	
A147476	KNAPE & VOGT CO	LOUIS HANSENSONS	DO	3	190	
A147704	PAPER CONTIANER	GREAT WESTERN SUP	DO	40	990	
A247475	CULLIGAN	CULLIGAN	DO	6	504	
A2477P2	NAVIDICO INC	ONTHANK DAVIDSON	DO	8	176	
A247550	PARENTS	MR MARTIN ALEEN HOTEL	DO	4	112	
A247606	W SALES & LEVENSON	AUTO PTS CO	DO	2	120	
			TOTAL WT.....		2,628	

THIS IS ANOTHER MANIFEST TO DAVENPORT IS ON THE SAME TRLR THAT CARRIED CR MARENGO GRINNELL NEWTON A MERCHANDISE-

PEDDLE

PATD.— THE SHELBY SALESBOOK CO., SHELBY, OHIO A801

DES MOINES OFFICE COPY

No. 2594

1983

Exhibit No. 41

[fol. 2595]

(P. 1983)

DES MOINES TRANSPORTATION CO.

FROM D MOINES TO DAVENPORT DATE 1/10/51MA

DRIVER F OSBORNE TRACTOR TRAILER 299 SEAL NO.

	FREIGHT BILL NO.	SHIPPER	CONSIGNEE	DESTINATION	NO. PIECES	WEIGHT	REVENUE
	651995	CAANAHAN & HENRY	SEARS ROEBUCK	DAVENPORT	12	144	
	737757	BROWN & BIGELOW	IOWANA FARMS MILK	BETTENDORF	2	532	
	499629	MIDWEST TIMERMANN	ERICKSON PLBG	MOLINE	3	122	
	737668	MARQUETTE APP INC	SIEG CO	DAVENPORT	1	140	
	663376	IOWA LITHOGRAPHING	MOLINE NATIONAL BK	MOLINE	6	240	
						1178	

CLEARTYPE

TRADE MARK REG. U.S. PAT. OFF.

COUNTY-TOWN IOWA

Scale of Miles

0 10 20 30 40 50

MAP NO. 6513

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MINN.

S. DAK.

NEBR.

MO.

ILL.

WIS.

LYON, SIOUX, OSCEOLA, DICKINSON, EMMET, KOSSUTH, WINNEBAGO, WORTH, MITCHELL, HOWARD, WINNESHIEK, ALLAMAKEE, PLYMOUTH, CHEROKEE, BUENA VISTA, POCAHONTAS, HUMBOLDT, WRIGHT, FRANKLIN, BUTLER, BREMER, BLACK HAWK, BUCHANAN, DELAWARE, DUBUQUE, IDA, SAC, CALHOUN, WEBSTER, HAMILTON, HARDIN, GRUNDY, TAMA, BENTON, LINN, JACKSON, MONONA, CRAWFORD, CARROLL, GREENE, BOONE, STORY, MARSHALL, JONES, CLINTON, HARRISON, SHELBY, AUDUBON, GUTHRIE, DALLAS, POLK, JASPER, POWESHIEK, IOWA, JOHNSON, CEDAR, SCOTT, POTTAWATTAMIE, CASS, ADAIR, MADISON, WARREN, MARION, MAHASKA, KEOKUK, WASHINGTON, LOUISA, MUSCATINE, MILLS, MONTGOMERY, ADAMS, UNION, CLARKE, LUCAS, MONROE, WAPELLO, JEFFERSON, HENRY, DES MOINES, FREMONT, PAGE, TAYLOR, RINGGOLD, DECATUR, WAYNE, APPANOOSE, DAVIS, VAN BUREN, LEE

Sioux City, Fort Dodge, Waterloo, Cedar Falls, Dubuque, Council Bluffs, Des Moines, Cedar Rapids, Davenport, Clinton, Burlington, Oskaloosa, Marshalltown, Newton, Mason City, Charles City, Indianola, Winterset, Knoxville, Pella, Grinnell, Marengo, Iowa City, Muscatine, Ottumwa, Centerville, Creston, Atlantic, Carroll, Denison, Storm Lake, Spencer, Estherville, Algona, Humboldt, Webster City, Eldora, Marshalltown, Tama, Toledo, Belle Plaine, Monticello, Anamosa, Maquoketa, Bellevue, Dyersville, Manchester, Independence, Jesup, Evansdale, La Porte City, Reinbeck, Grundy Cen., Parkersburg, Hampton, Clarion, Eagle Grove, Belmond, Britt, Garner, Clear Lake, Rockford, Osage, Nashua, New Hampton, Cresco, Decorah, Ossian, Postville, Waukon, Lansing, Monona, McGregor, Elkader, Guttenberg, Strawberry Pt., Clayton, Fayette, W. Union, Oelwein, Sumner, Tripoli, Greene, Clarksville, Shell Rock, Allison, Beverly, Sheffield, Hampton, Humboldt, Dakota City, Algona, Emmetsburg, Graettinger, Milford, Arnolds Pk., Spirit Lake, Rock Rapids, George, Sibley, Sanborn, Sheldon, Hartley, Primghar, Paullina, O'Brien, Hull, Rock Valley, Sioux Cen., Hawarden, Orange City, Alton, Remsen, Le Mars, Akron, Kingsley, Cherokee, Marcus, Pocahontas, Laurens, Rolfe, Fonda, Storm Lake, Buena Vista, Sioux Rapids, Alta, Correctionville, Moville, Holstein, Ida Grove, Sac City, Odebolt, Lake View, Rockwell City, Lake City, Manson, Gowrie, Jewell, Story City, Ames, Nevada, Grand Junction, Scranton, Jefferson, Carroll, Coon Rapids, Manning, Manilla, Onawa, Mapleton, Danbury, Woodbury, Sioux City, Moville, Correctionville, Holstein, Ida Grove, Sac City, Odebolt, Lake View, Rockwell City, Lake City, Gowrie, Webster City

[fol. 2612] Exhibit No. 51

Tonnage On Motor Freight For 1-1-51 To 4-[illegible]-51

	Pogue		Des Moines		Knaus		Ia Iyeri		McCoy		Totals		Weekly Tonnage	Monthly Tonnage
	I/B	O/B	I/B	O/B	I/B	O/B	I/B	O/B	I/B	O/B	I/B	O/B		
1-5-51	39456	7370	20248	245	8603	675	8520	-	31982	-	102809	8290	111099	
1-13-51	78702	54362	13493	250	20067	1327	16275	-	22813	4288	151347	60227	211574	
1-20-51	25211	13105	17425	100	2047	1620	5714	-	8967	9055	59364	23880	83244	
1-27-51	36926	39099	19830	180	13637	5955	7409	-	23965	12199	101767	57433	159200	
	174295	113936	70996	775	44951	9577	37918	-	87727	25542	415287	179890	565117	565117
	288,231		71,771		53,928		37,918		113,269					
2-6-51	46083	30557	16774	100	13500	2420	6722	-	17819	003	97898	33740	131638	
2-10-51	29633	10068	28821	275	11516	2430	24373	-	6638	2053	100981	15426	116407	
2-17-51	23413	29299	17291	-	5348	3440	865	-	2880	-	49797	32739	82536	
2-24-51	45104	28969	9767	3804	15308	5760	33508	-	50255	965	153942	37498	193440	
	144233	98893	72653	4179	45672	14050	65468	-	77592	4281	402618	121403	527021	527021
	243,126		76,832		59,722		65,468		78,873					
3-7-51	44179	49060	23275	-	17660	8707	18917	-	19988	1868	124019	59635	183654	
3-12-51	66162	23816	19536	30	9757	6590	20818	-	33345	-	149618	30436	180054	
3-17-51	57240	36004	19227	2304	24029	1990	8634	-	24089	-	133219	40303	173522	
3-31-51	31450	20423	4911	-	10791	13323	7453	-	17452	-	69057	33746	102803	
	199031	129308	66949	2334	62237	30610	55822	-	91874	1868	475913	164120	640033	640033
	328,339		69,283		92,847		55,822		93,742					

TONNAGE ON MOTOR FREIGHT FOR 1-1-52 & 4-1-52

	POOLE		DES MOINES		KNAUS		IA-NEBR.		McCOY		MOTOR CARGO		TOTALS		WEEKLY TONNAGE	MONTHLY TONNAGE
	I/B	O/B	I/B	O/B	I/B	O/B	I/B	O/B	I/B	O/B	I/B	O/B	I/B	O/B		
1-5-52	29018	61 92	8818	110	3618	1790	4373	-	3206	-	-	-	49033	8022	57055	
1-12-52	45330	42384	69093	-	10756	4533	4713	-	6861	-	12295	-	149078	47211	196295	
1-19-52	30826	35126	16407	183	11739	9071	5380	-	18162	-	1332	-	83846	44380	128226	
1-26-52	23330	73277	21050		6755	9078	9741	-	11406	-	1491	-	73773	82355	156128	
	128504	156979	115368	223	32898	24772	24207	-	39635	-	15118	-	355730	181974	537704	537704
	285,483		115,591		57,670		24,207		39,635		15,118					
2-2-52	37962	31736	13726	1000	5123	6641	7763	-	4998	-	1850	-	71422	39377	110799	
2-9-52	37234	32869	18730	2338	7150	6909	7116	-	36265	-	3089	-	109584	42116	151700	
2-16-52	30834	25772	14365	511	12937	3620	27291	-	9641	-	4162	1600	99290	31503	130793	
2-23-52	31549	22889	9848	595	1514	8200	11450	-	16758	-	4538	-	75657	31684	107341	
	137579	113266	56669	4444	26724	25370	53620	-	67702	-	13639	1600	355953	144680	500633	500633
	250,845		61,193		52,094		53,620		67,702		15,239					
3-1-52	35286	20147	23893	788	2734	2855	7055	-	9753	-	5392	-	84093	29790	107883	
3-8-52	24087	17420	25273	-	29610	3721	17174	-	7766	-	3790	-	110700	21141	131841	
3-15-52	22555	21984	16355	-	3642	-	1594	-	8077	-	2864	-	55087	21984	77071	
3-22-52	33691	23526	12458	3284	38	4500	10693	928	14491	-	8405	-	79776	32238	112014	
3-29-52	26525	38638	19041	3224	-	-	7680	-	17614	-	461	-	71321	41862	113183	
	142144	121715	100000	7296	36024	11076	44196	928	57701	-	20912	-	400977	141015	541992	541992
	263,859		107,296		47,100		45,124		57,701		20,912					

Total For Carrier O/B.	342137	7288	54237	–	31691
Total For Carrier I/B.	517559	210598	152260	159208	254193
Total I/B - O/B ($ mos)	859696	217886	206497	159208	285884

Total Outbound Tonnage	435,353
Total Inbound Tonnage	1,293,818
Total Tonnage Handled	1,729,171

Total For Carrier O/B	391960	11963	61218	928	-	1600
Total For Carrier I/B.	408227	272057	95646	133644	165038	55431
Total I/B + O/B (3 mos)	800187	284020	156864	134572	165038	57031

Total Outbound Tonnage	467,669
Total Inbound Tonnage	1,130,043
Total Tonnage Handled	1,597,712

IOWA-NEBRASKA TRANSPORTATION CO., INC.

	Pro No.	Date	Origin	Destination	Commodity	Weight
OM	59324	3/ 3/52	Omaha	Victor	perfex	217
	59327	3/ 3/52	"	Altoona	liq insecticide	225
	59339	3/ 4/52	"	Minden	packing products	227
	59352	3/ 5/52	"	Menlo	oil	589
	59421	3/ 5/52	"	Casey	pipe	66
	59422	3/ 5/52	Lincoln	Marengo	prtd forms	185
	59435	3/ 5/52	Beatrice, Nebr.	Wiota	heater	215
	59439	3/ 5/52	Omaha	Underwood	carpet	145
	59463	3/ 5/52	"	Des Moines	paper	80
	59470	3/ 5/52	"	Neola	candy	60
	59487	3/ 6/52	"	Harlan	auto parts	677
	59511	3/ 1/52	"	Grinnell	tires	2187
	59512	3/ 1/52	"	Davenport	tires	894
	59553	3/ 1/52	K.C., Mo.	Newton	vac cleaners	105
	59578	3/ 6/52	Omaha	Marne	steel	771
	59573	3/ 6/52	Moscow, Idaho	Iowa City	books	270
	59595	3/ 6/52	Denver, Colo.	Davenport	envelopes	288
	59617	3/ 6/52	Omaha	Brooklyn	engine parts	33
	59696	3/ 7/52	"	Atlantic	tires	1200
	59697	3/ 8/52	"	Stuart	oil	1308
	59716	3/ 8/52	"	Victor	locksets	113
	59758	3/10/52	"	Marengo	paper	220
	59776	3/10/52	"	Walnut	paint	120
	59877	3/10/52	"	Mitchellville	rockers	120
	59878	3/11/52	Fort Worth, Tex.	Colfax	iron	96
	59923	3/12/52	Omaha	Grinnell	pistons	40
	59950	3/12/52	"	Des Moines	flour	1010
	59996	3/13/52	"	Grinnell	kitchen cabinet	78
	60245	3/18/52	"	Atlantic	groc	240
	60463	3/24/52	"	Harlan	iron	1516
	60536	3/25/52	"	Avoca	washer	142
	60540	3/25/52	"	Marne	coffee	202
	60550	3/25/52	"	Brooklyn	cross arms	1914
	60569	3/25/52	"	Des Moines	rubber hose	80
	60627	3/26/52	"	Colfax	scouring pwdr	134
	60634	3/26/52	"	Newton	shoe dressing	80
	60635	3/26/52	"	Grinnell	" "	50
	60636	3/26/52	"	Marengo	" "	73
	60640	3/26/52	"	Wiota	anti-freeze	399
	60648	3/26/52	"	Iowa City	linoleum	530
	60652	3/27/52	"	Neola	soap pwdr	298
	60655	3/26/52	"	Corley	" "	360
	60689	3/27/52	"	Harlan	" "	1581
	60693	3/27/52	"	Menlo	hardware	366
	60700	3/27/52	"	Stuart	imp parts	495
[fol. 2568]						
OM	60805	3/29/52	"	Davenport	engine	1550
	60807	3/29/52	"	Adair	hardware	174
	60808	3/29/52	"	Anita	hardware	142
	60809	3/29/52	"	Stuart	"	85
	60813	3/29/52	"	Ladora	coffee	408
	60843	3/29/52	"	Corley	moulding	100
	60844	3/29/52	"	Wiota	batteries	121
	60881	3/31/52	"	Casey	screen	Min.
	60926	3/31/52	"	Marne	welding rod	250
	60933	3/31/52	Lincoln	Grinnell	candy	51

IOWA-NEBRASKA TRANSPORTATION CO., INC.

	Pro No.	Date	Origin	Destination	Commodity	Weight
OM	60958	3/31/52	Omaha	Dexter	jugs	57
	60981	4/ 1/52	"	Des Moines	pump	543
	60983	4/ 1/52	"	Atlantic	chest	95
	60984	4/ 1/52	"	Stuart	hardware	226
	60990	4/ 1/52	"	Avoca	imp	344
	61019	4/ 1/52	"	Anita	tires	520
	61024	4/ 1/52	"	Casey	wall paper	102
	61025	4/ 1/52	"	Adair	clg comp	50
	61040	4/ 2/52	"	Oakland	washers	561
	61117	4/ 3/52	"	Marne	soap	421
	61119	4/ 3/52	"	Neola	soap	308
	61209	4/ 4/52	"	Harlan	sheet steel	606
	61273	4/ 5/52	"	Walnut	paint	524
	61341	4/ 7/52	"	Newton	chemicals	47
	61342	4/ 7/52	"	Iowa City	chemicals	628
	61357	4/ 7/52	"	Grinnell	tlt prpe	48
	61368	4/ 7/52	"	Wiota	tank	1302
	61386	4/ 8/52	"	Neola	pipe	265
	61419	4/ 9/52	"	Davenport	chemicals	285
	61538	4/10/52	"	Corley	hardware	178
	61592	4/10/52	"	Iowa City	wheat germ	261
	61597	4/10/52	"	Newton	beauty sply	65
	61599	4/10/51	Lincoln	Grinnell	prtd forms	220
	61664	4/12/52	Omaha	Colfax	liq wax	174
	61726	4/14/52	Atlantic	Omaha	used tires	245
	61772	4/15/52	Omaha	Minden	cable	80
	61826	4/15/52	"	Atlantic	groceries	400
	61836	4/16/52	"	Neola	glassware	Min.
	61845	4/16/52	Malad, Idaho	Bettendorf	imp	190
	61857	4/16/52	Omaha	Dexter, Ia.	welding rod	100
	61864	4/16/52	Dallas Tex,	Grinnell	clothing	100
	61867	4/16/52	Omaha	Brooklyn	iron	280
	61868	4/16/52	"	Adair	weed killing comp	285
	61869	4/16/52	"	Casey	coffee	406
	61882	4/17/52	Sioux Falls, S.D.	Brooklyn	candy	120
	61888	4/17/52	Omaha	Anita	pipe and fittings	360
	61907	4/18/52	"	Mitchellville	vanilla	800
	61912	4/17/52	"	Stuart	chains	158
	61928	4/18/52	"	Avoca	pwoer mower	135
	61931	4/18/52	"	Walnut	windmill	210
	61953	4/19/52	"	Des Moines	beauty sply	50
	61956	4/19/52	"	Anita	tires	200
	61989	4/19/52	"	Iowa City	shoe repairs	151
	61995	4/19/52	"	Oakland	candy	162
	62001	4/19/52	"	Harlan	pipe and fittings	202

1948

[fol. 2569] EXHIBIT No. 32

IOWA-NEBRASKA TRANSPORTATION CO., INC.

	Pro No.	Date	Origin	Destination	Commodity	Weight
DM	19965	9/27/51	LaCrosse, Wisc.	Grinnell	shoes	Min.
	19970	9/27/51	Chicago	Colfax	groceries	109
	19971	9/27/51	Chicago	Anita	paper cords	37
	19974	9/27/51	St. Joe, Mo.	Stuart	candy	402
	19976	9/27/51	Stanley, Wisc.	Victor	suit cases	70
	19981	9/27/51	St. Louis, Mo.	Grinnell	light fixtures	3712
	19985	9/27/51	Des Moines	Omaha	food	130
	19986	9/27/51	Mitchellivlle	Sioux Falls, S.D.	flavor	625
	19987	9/28/51	Des Moines	York, Nebr.	tires	607
	19988	9/28/51	"	S. Omaha, Nebr.	Tires	900
	19991	9/28/51	"	Omaha	steel barrels	270
	19992	9/28/51	Stuart, Iowa	Omaha	oil drums	2220
	19993	9/28/51	St. Louis, Mo.	Atlantic, Ia.	clothing	65
	20013	9/28/51	K. C., Mo.	Stuart, Ia.	vacuum pump	Min.
	20016	9/28/51	St. Louis, Mo.	Grinnell	diathermy appts	280
	20017	9/28/51	Cinti, O.	Dexter	prtd cards	86
	20020	9/28/51	K. C. Mo.	Dexter	storm sash	296
	20060	9/28/51	D. Moines, Ia.	Gr. Rpds, Mich.	tires	862
	20061	9/28/51	"	Pittsburgh, Pa.	tires	2141
	20062	9/28/51	"	Euclid, O.	tires	5078
	20063	9/28/51	Mitchellville, Ia.	Malme, Ill.	flavor	1125
	20064	9/28/51	"	Galesburg, Ill.	"	225
	20065	9/28/51	"	Gering, Nebr.	flavor	625
	20081	9/29/51	Wichita, Kansas	Grinnell, Ia.	co nc mix mach	240
	20083	9/29/51	K. C., Mo.	Adair, Ia.	sash	110
	20084	9/29/51	St. Joe, Mo.	Menlo	or sp9	74
	20086	9/29/51	St. Louis, Mo.	W. Liberty	iron pipe	1840
	20089	9/29/51	Chgo.	Stuart, Ia.	clothing	60
	20104	9/29/51	St. Louis, Mo.	Newton	metal	58
	20132	10/ 1/51	Henderson, Ky.	Atlantic	cotton pants	99
	20138	10/ 1/51	Rockford, Ill.	Omaha	pulleys	70
	20140	10/ 1/51	Des Moines	Detroit, Mich.	tires	476
	20146	10/ 1/51	Lincoln, Nebr.	Adair, Ia.	traffic signs	365
	20151	10/ 1/51	L. A., Calif.	Grinnell, Ia.	clothing	477
	20152	10/ 1/51	Omaha	Marengo	hand truck	167
	20187	10/ 1/51	Mitchellivlle, Ia.	Alpena, Mich.	flavor	250
	20188	10/ 1/51	"	Lansing, Mich.	fruit juice	390
	20189	10/ 1/51	"	Cleveland, O.	dessert prep	106
	20190	10/ 1/51	"	Grand Jct., Colo.	flavor	375
	20191	10/ 1/51	"	Hutchinson, Kans.	flavor	450
	20196	10/ 2/51	Des Moines, Ia.	Chicago	tire treads	6960
	20201	10/ 2/51	Chicago	Colfax	auto parts	143
	20225	10/ 2/51	St. Louis, Mo.	Casey	Cotton goods	55
	20226	10/ 2/51	"	Anita	drugs	107
	20254	10/ 2/51	Mitchellville, Ia.	Atlanta, Ga.	dessert prep	210
	20255	10/ 2/51	"	Knoxville, Tenn.	"	105
	20256	10/ 2/51	"	Lansing, Mich.	frozen juice	390
	20259	10/ 3/51	Des Moines, Iowa	Detroit, Mich.	tires	3677
	20261	10/ 3/51	Des Moines, Iowa	York, Nebr.	tires	105
	20264	10/ 3/51	Des Moines, Iowa	Omaha, Nebr.	tires	1631
	20267	10/ 3/51	K. C., Mo.	Stuart, Iowa	coffee	125
	20276	10/ 3/51	Maryville, Mo.	Brooklyn	tire chains	192
	20277	10/ 3/51	Des Moines, Ia.	Omaha	oil	900
	20279	10/ 3/51	"	Ogallala, Neb.	tires	3435

IOWA-NEBRASKA TRANSPORTATION CO., INC.

	Pro No.,	Date	Origin	Destination	Commodity	Weight
DM	20280	10/ 3/51	Hoppins, Minn.	Grinnell	agri imp	270
	20281	10/ 3/51	Merrill, Wisc.	Colfax	shoes	134
	20284	10/ 3/51	K. C., Mo.	Altoona, Ia.	drugs	151
	20285	10/ 3/51	Decatur, Ill.	Mitchellivlle	drugs	95
	20297	10/ 3/51	St. Louis, Mo.	Anita	cotton hose	50
	20299	10/ 3/51	Mitchell ville	Evansille, Ind.	flavor	135
	20300	10/ 3/51	D. Moines, Ia.	Appleton, Wisc.	camelback	1122
	20310	10/ 4/51	"	York, Nebr.	tires	56
	20314	10/ 4/51	St. Louis, Mo.	Casey	notions	50
	20332	10/ 4/51	Portland, Ore.	Ladora, Ia.	wire goods	260
	20363	10/ 4/51	Mitchellivlle	Gr. Rpds., Mich.	dessert prp	65
	20419	10/ 5/51	Omaha	Marengo	tubes	35
	20425	10/ /51	Omaha	W. Liberty	heater	162
	20457	10/ 5/51	St. Louis, Mo.	Anita	drugs	1553
	20461	10/ /51	Mitchellville, Ia.	Jackson, Mich.	fruit juice	390
	20470	10/ 6/51	Minneapolis, Minn.	Brooklyn, Ia.	clothing	178

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DM	20471	10/ 6/51	Minneapolis, Minn.	Dexter, Ia.	tire chains	56
	20478	10/ 6/51	St. Paul, Minn.	Victor	wood tanks	200
	20549	10/ 8/51	Joliet, Ill.	Anita, Ia.	wallpaper	45
	20575	10/ 8/51	So. Omaha, Nebr.	Marengo	glue	92
	20583	10/ 8/51	St. Louis, Mo.	Atlantic	tlt prep	96
	20620	10/ 8/51	Mitchellville	Rock Island, Ill.	flavor	375
	20630	10/ 9/51	Centralia, Ill.	Marengo	oil stove	590
	20669	10/10/51	St. Louis, Mo.	Avoca	thread	83
	20673	10/10/51	"	W. Liberty	alum arts	116
	20674	10/10/51	"	Colfax	soap	239
	20675	10/10/51	Mpls, Minn.	Brooklyn	canned fruit	710
	20701	10/10/51	St. Louis, Mo.	Oakland	candy	40
	20718	10/10/51	Mitchellville	Hartford Conn.	dessert prep	105
	20743	10/11/51	Danville, Ill.	Menlo	rubber cement	50
	20750	10/11/51	Peoria, Ill.	W. Liberty	hardware	200
	20760	10/11/51	K. C., Mo.	Grinnell	Oil	312
	20771	10/11/51	Mitchelville, Ia.	Cleveland, O.	dessert prep	210
	20787	10/12/51	Dassel, Minn.	Brooklyn	hen nests	169
	20788	10/12/51	"	Mitchellvilel	"	60
	20790	10/12/51	Nashville, Ill.	Victor	refrig	315
	20846	10/13/51	Centrailia, Ill.	Marengo	oil stove	270
	20888	10/15/51	Chicago	Wiota	books	185
	20892	10/15/51	K. C., Mo.	Avoca	drugs	86
	20930	10/15/51	"	Walnut	tlt pep	94
	20933	10/15/51	St. Louis	Iowa City	fixtures	58
	20948	10/15/51	Mitchellville	Washington, D. C.	food color	220
	21002	10/16/51	Valley Park, Mo.	Victor	tables	34
	21055	10/17/51	St. Louis	Avoca	shoes	42
	21065	10/17/51	Mitchellville	Washington, D. C.	dsert prep	353
	21100	10/18/51	Rock Island	Mitchellville	imp parts	579
	21194	10/19/51	Mitchellivlle	Amarillo, Tex.	flavor	106
	21195	10/19/51	Colfax	Milwaukee, Wisc.	tank	114
	21228	10/20/51	Cinti, O.	Menlo	tlt prep	75
	21253	10/20/51	K. C., Mo.	Marengo	calendars	135
	21280	10/22/51	Coffeyville, Kans.	Marengo	cables	50
	21324	10/22/51	Mitchellville, Ia.	Cleveland, O.	dsrt prep	210
	21342	10/23/51	St. Louis, Mo.	Brooklyn	fittings	550
	21350	10/23/51	Lincoln	W. Liberty	feeder	185

IOWA-NEBRASKA TRANSPORTATION CO., INC.

	Pro No.	Date	Origin	Destination	Commodity	Weight
DM	21384	10/24/51	Duluth, Minn.	Mitchellville	flavor	26
	21417	10/24/51	Mitchellville	Cicero, Ill.	dsrt prep	210
	21469	10/25/51	Lebanon, Mo.	Stuart,	rockers	225
	21480	10/25/51	Omaha	Victor	oil	750
	21546	10/26/51	Mitchellville	Spokane, Wash.	dsrt prp	125
	21675	10/29/51	St. Louis, Mo.	Atlantic, Ia.	tlt prpe	108
	21705	10/29/51	K. C. Mo.	Marengo, Ia.	bgs quebracho	500
	21715	10/29/51	Mitchellville	Colo. Spring, Colo.	flavor	625
	21738	10/30/51	Maryville, Mo.	Victor	chains	394
	21768	10/30/51	Mitchellviell	Augusta, Ga.	dsrt prp	105
	21816	10/31/51	St. Joe, Mo.	Menlo	or sp 85	123
	21870	11/ 1/51	Omaha	W. Liberty	tires	50
	21896	11/ 1/51	St. Louis, Mo.	Ladora, Ia.	school supplies	199
	21932	11/ 1/51	Mitchellville,	Omaha	flavor	625
	21996	11/ 2/51	Mitchellville,	Phila, Pa.	dsrt prep	53
	22011	11/ 3/51	St. Louis, Mo.	Avoca	dry goods	Min
	22026	11/ 3/51	K. C., Mo.	Mitchellville	cards	53
	22065	11/ 5/51	Chicago	Stuart, Ia.	cables	65
	22094	11/ 5/51	Peoria, Ill.	Victor	feed	306
	22103	11/ 5/51	Mitchellville	Moline, Ill.	flavor	1125
	22176	11/ 6/51	St. Louis, Mo.	Adair	notions	300
	22272	11/ 8/51	Joplin, Mo.	Marengo	chairs	100
	22295	11/ 8/51	Mitchellville	Duluth, Minn.	Dsrt prep	105
	22317	11/ 9/51	St. Louis, Mo.	Victor	feed	208
	22368	11/10/51	St. Louis, Mo.	Mitchellville	calendars	62
	22430	11/12/51	Albert Lea, Minn.	Colfax	stoves	165
	22480	11/12/51	Mitchellville, Ia.	Champaign, Ill.	flavor	1250
	22486	11/13/51	Marshall, Minn.	Brooklyn	T.V. Tower	300
	22523	11/13/51	Mitchellville	Rock Island	flavor	625
	22536	11/14/51	K. C., Mo.	Dexter, Iowa	dry goods	65
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DM	22598	11/15/51	K. C., Mo.	West Liberty	drugs	70
	22661	11/16/51	Sturgis, Mich.	Mitchellville	prtd paper	75
	22699	11/17/51	Chicago	Altoona	bandages	46
	22728	11/19/51	K. C., Mo.	Marengo	ruebrachs	400
	22780	11/19/51	Mitchellville	Knoxville	drt prpes	105
	22806	11/20/51	St. Louis, Mo.	Iowa City	yeast	111
	22807	11/20/51	St. Louis, Mo.	Newton	transformers	1659
	22842	11/21/51	Minneapolis, Minn.	Wiota	T.V. Set	160
	22860	11/21/51	St. Louis, Mo.	Marengo	thread	105
	22921	11/23/51	Minneapolis, Minn.	W. Liberty	carbon lens	55
	22971	11/23/51	Mitchellville	Cleveland	dsrt prep	210
	23030	11/26/51	St. Louis, Mo.	Victor	animal feed	104
	23069	11/26/51	Mitchellville	Liberal, Kans.	flavor	625
	23012	11/27/51	Milw., Wisconsin	Wiota	toys	60
	23154	11/29/51	St. Louis, Mo.	Altoona	drugs	145
	23186	11/29/51	Mitchellville	Little Rock, Ark.	fruit juice	390
	23245	11/30/51	"	Kansas City, Kans.	dsrt prep	105
	23265	12/ 1/51	Denver, Colo.	Marengo	suit cases	414
	23330	12/ 3/51	Mitchellivlle	Washington, D. C.	dessert prep	250
	23356	12/ 4/51	Omaha	Brooklyn	tires	82
	23394	12/ 5/51	Peoria, Ill.	Mtichellville	drugs	100
	23448	12/ 6/51	St. Joe, Mo.	W. Liberty	or sp 47	111
	23488	12/ 6/51	Mitchellville	Denver, Colo.	flavor	130
	23513	12/ 7/51	Kansas City, Kans.	Mitchellville	essentralube	125
	23534	12/ 8/51	Peoria, Ill.	W. Liberty	tele.	201

IOWA-NEBRASKA TRANSPORTATION CO., INC.

	Pro No.	Date	Origin	Destination	Commodity	Weight
DM	23651	12/11/51	K. C., Mo.	Victor	screens	44
	23656	12/11/51	Sheb. Wisc.	Mitchellville	lavatory	65
	23719	02/13/51	Morton, Il.	Marengo	Hardware	2220
	23799	12/14/51	Mitchellivlle	Okla, City, Okla.	dsrt prep	118
	23802	12/15/51	Bradford, Ill.	Victor	harrow	637
	23841	12/17/51	St. Louis, Mo.	Marengo	thread	81
	23958	12/19/51	St. Louis, Mo.	Colfax	tlt prep	39
	24027	12/21/51	Mpls, Minn.	Mitchellville	ppr rolls8	Min.
	24033	12/21/51	Mitchellville	Portsmouth, O.	dssrt prep	217
	24087	12/26/51	Portsmouth, O.	Brooklyn	shoes	93
	24189	12/28/51	K. C., Mo.	Iowa City	copper wire	136
	24228	12/29/51	K. C., Mo.	Victor	mac not prp	155
	24257	12/31/51	St. Louis, Mo.	Mitchellville.	Drugs	200
	24325	1/ 2/52	Mitchellville	K. C., Mo.	dessert prep	210
	24372	1/ 4/52	LaCrosse, Wisc.	Brooklyn	shoes	141
	24404	1/ 5/52	Peorial, Ill.	Colfax	elevator	1700
	24455	1/ 7/52	Mitchellivlle	Washington, D. C.	dssrt prep	125
	24507	1/ 9/52	Mpls, Minn.	Mitchellville	med sply	Min.
	24597	1/11/52	Mpls, Minn.	Mitchellville	mlding	Min.
	24641	1/12/52	St. Joe, Mo.	Colfax	ov sp 723	156
	24729	1/15/52	Mpls, Minn.	Mitchellville	tissues	Min.
	24813	1/16/52	Mitchellville	Denver	frzon juice	468
	24818	1/17/52	Chicago	Colfax	auto parts	207
	24909	1/19/52	Omaha	Marengo	pictures	66
	24987	1/21/52	Mpls, Minn.	Colfax	fruit in glass	190
	25008	1/21/52	Mitchellville	Washington, D. C.	dsrt prp	250
	25022	1/22/52	Warsaw, Ind.	W. Liberty	detergent	100
	25099	1/23/52	Mitchellville	Midland, Mich.	steel drums	100
	25160	1/24/52	Frankfort, Ky.	W. Liberty	clothing	85
	25239	1/25/52	Citi, Ohio	Marengo	drums	128
	25310	1/28/52	St. Joe, Mo.	Colfax	overalls	89
	25340	1/28/52	Omaha	Ladora	wel der parts	140
	25462	1/30/52	Maryville, Mo.	Brooklyn	tire chains	184
	25598	2/ 1/52	Peoria, Ill.	Mitchellville	drugs	100
	25625	2/ 1/52	Bradford, Ill.	Marengo	harrow	2468
	25755	2/ 4/52	Mitchellville	Sioux Falls, S. D.	flavor	625
	25768	2/ 5/52	Mpls, Minn.	Victor	paper	80
	25859	2/ 6/52	K. C., Mo.	Brooklyn	novelties	Min.
	25971	2/ 8/52	St. Louis, Mo.	Mitchellville	chemicals	31
	25972	2/ 8/52	Bayport, Minn.	Colfax	stl shdways	30
	26055	2/ 9/52	Nennah, Wisc.	W. Liberty	paper	58
	26067	2/11/52	Nash, Tenn.	Victor	cltohing	176
	26205	2/13/52	Maryville, Mo.	Brooklyn	tire chains	340
[fol. 2572]						
DM	26272	2/14/52	Racine, Wisc.	Victor	drawbars	43
	26381	2/15/52	Mitchellville	Cleveland, O.	dessert prep	210
	26464	2/18/52	Mitchellville	Portsmouth, O.	"	217
	26654	2/21/52	Mitchellville	Denver, Colo.	"	148
	26680	2/22/52	K. C., Mo.	Colfax	chinaware	95
	26748	2/23/52	St. L., Mo.	Marengo	shoes	215
	26917	2/26/52	Mpls, Minn.	W. Liberty	hardware	80
	27048	2/28/52	St. Louis, Mo.	Colfax	thread	120
	27000	2/27/52	K. C., Mo.	Altoona	medicine	59
	27052	2/28/52	Chicago	Mitchellville	dried veg.	127
	27056	2/28/52	Red Wing, Minn.	Victor	shoes	120
	27087	2/28/52	Mitchellville	Milan, Il.	drt prep	105

IOWA-NEBRASKA TRANSPORTATION CO., INC.

	Pro No.	Date	Origin	Destination	Commodity	Weight
DM	27111	2/29/52	St. Louis, Mo.	Marengo	insecticide	245
	27160	3/ 0/52	Beatrice	Victor	glass	205
	27239	3/ 3/52	Mitchellville	Washington, D. C.	dsrt prp	500
	27319	3/ 5/52	Irene, S. Dak.	Ladora	oats	1000
	27372	3/ 6/52	Mitchellville	Watertown, S. D.	flavor	250
	27446	3/ 7/52	Seward, Nebr.	W. Liberty	Barrles	990
	27479	3/ 8/52	K. C., Mo.	Altoona	paint	204
	27502	3/ 8/52	St. Louis, Mo.	Brooklyn	switches	341
	27583	3/11/52	Nash., Tenn.	Marengo	shirts	74
	27703	3/13/52	Brooklyn, NY	Brooklyn, Ia.	wood boiler	180
	27715	3/13/52	San Bruno, Calif.	Mitchellville	labels	125
	27781	3/14/52	Splfd., Ill.	Marengo	brackets	454
	27868	3/15/52	Providence, Ky.	Victor	Notions	143
	27869	3/ 1/552	"	Mitchellville	"	143
	27870	3/15/52	"	Colfax	"	143
	27873	3/15/52	Grandville, Mich.	Ladora	oil	3860
	27915	3/17/52	Mitchellville	Liberal, Kans.	flavor	876
	28012	3/19/52	Mitchellville	Sterling, Colo.	frozen juice	390
	28195	3/22/52	St. Louis, Mo.	Colfax	shoes	59
	28275	3/24/52	Chicago	Altoona	vac cleaners	86
	28274	3/24/52	Mitchellville	E. St. Louis, Mo.	dsrt prep	105
	28316	3/25/52	Lebanon, O.	Brooklyn	flower bulbs	72
	28373	3/26/52	Michellville	Hays Center	flavor	110
	28692	3/31/52	Mitchellville	Omaha	flavor	4787
	28872	4/ 2/52	Mitchellville	Washington, D. C.	dsrt prep	155
	28965	4/ 4/52	Ft. Scott, Kans.	Victor	work clothing	132
	29021	4/ 5/52	Rock Island, Ill.	Mitchellville	wheel weights	578
	29115	4/ 7/52	St. Louis, Mo.	Brooklyn	groceries	173
	29241	4/ 9/52	Michellville	Gering, Nebr.	flavor	625
	29251	4/ 9/52	Albert Lea, Minn.	Victor	wather heater	218
	29260	4/ 9/52	Waupaca, Wisc.	Colfax	hand truck	151
	29266	4/ 9/52	Dassell, Minn.	Brooklyn	hen nests	74
	29333	4/10/52	Winona, Minn.	Ladora	groceries	6479
	29337	4/10/52	St. Louis, Mo.	Mitchellville	chemical	32
	29417	4/11/52	Mitchellville	Peoria, Illl.	flavor	1500
	29563	4/14/52	Mitchellville	Duluth, Minn.	drt prep	105
	29581	4/15/52	K. C., Mo.	Brooklyn	stencil mah	113
	29686	4/16/52	Omaha	Victor	Imp	86
	29755	4/17/52	Chicago	Altoona	paint	410
	29760	4/17/52	Mitchellville	Srpingfield, Ill.	flavor	625
	29883	4/19/52	K. C., Mo.	Colfax	Oil	767

[fol. 2573] EXHIBIT No. 33

IOWA-NEBRASKA TRANSPORTATION CO., INC.

	Pro. No.	Date	Origin	Destination	Commodity	Weight
CH	167907	9/27/51	Chicago	Des Moines	wood baskets	1320
	167908	9/27/51	"	Iowa City	cotton towels	246
	167919	9/27/51	"	Co. Bluffs	cloth tape	47
	167925	9/27/51	"	Davenport	outlet boxes	768
	167926	9/27/51	"	Iowa City	peanuts	130
	167929	9/27/51	"	Grinnell	alum. mldg.	60
	167932	9/27/51	"	Brooklyn	groceries	625
	167950	9/27/51	"	Newton	cheese spreads	215
	168030	9/28/51	"	Harlan	wire	525

IOWA-NEBRASKA TRANSPORTATION CO., INC.

	Pro No.	Date	Origin	Destination	Commodity	Weight
CH	168077	10/ 1/51	Chicago	Coralville	confectionery	286
	168128	10/ 1/51	"	Atlantic	peanut oil	471
	168189	10/ 2/51	Philadelphia	Neola	transformer	1750
	168203	10/ 2/51	Chicago	Oakland	roof cement	400
	168228	10/ 2/51	"	Casey	batteries	105
	168249	10/ 2/51	"	Durant	soap	65
	168263	10/ 2/51	"	Harlan	coffee	178
	168274	10/ 3/51	Oshkosh, Wisc.	Brooklyn	pads	147
	168329	10/ 3/51	Chicago	Durant	groceries	158
	168342	10/ 3/51	"	Durant	lead pipe	1537
	168374	10/ 3/51	"	Stuart	notions	190
	168376	10/ 4/51	"	Harlan	wallpaper	195
	168425	10/ 4/51	"	W. Liberty	groceries	247
	168439	10/ 4/51	"	Iowa City	"	169
	168509	10/ 4/51	"	Durant	iron castings	70
	168511	10/ 4/51	"	Grinnell	syrup flavor	355
	168513	10/ 4/51	"	Durant	power pump	846
	168530	10/ 4/51	"	Marengo	notions	212
	168563	10/ 5/51	"	Newton	candy	188
	168568	10/ 5/51	"	Co. Bluffs	auto parts	185
	168614	10/ 5/51	"	Davenport	baskets	440
	168619	10/ 5/51	"	Avoca	groceries	217
	168625	10/ 5/51	"	Wilton Jct.	fencing	5418
	168629	10/ 5/51	"	Colfax	peanuts	130
	168635	10/ 5/51	"	Adair	groceries	179
	168636	10/ 5/51	"	Atlantic	"	370
	168671	10/ 8/51	"	Davenport	Rivets	39
	168672	10/ 8/51	Philadelphia	Neola	bars	108
	168702	10/ 8/51	Chicago	Durant	furnace castings	125
	168707	10/ 8/51	"	Des Moines	radiator cores	780
	168710	10/ 8/51	"	Mitchellville	egg albumen	251
	168806	10/ 9/51	"	Neola	school books	120
	168813	10/ 9/51	"	Durant	lead pipe	925
	168821	10/ 9/51	"	Oakland	notions	175
	168832	10/10/51	Evansville, Ind.	Dexter	water heater	215
	168702	10/ 8/51	Chicago	Brooklyn	notions	272
	168921	10/10/51	"	Atlantic	groceries	234
	168925	10/10/51	"	Marengo	notions	118
	168943	10/10/51	"	Wilton Jct.	T.V. Set	80
	168976	10/10/51	"	Davenport	groceries	540
	168977	10/11/51	"	Des Moines	"	1080
	168982	10/11/51	"	Omaha	bolts	56
	169006	10/11/51	"	Harlan	shirts	50
	169007	10/11/51	"	Victor	notions	360
	169012	10/11/51	"	Iowa City	garner	164
	169013	10/11/51	"	Avoca	peanuts	99
	169014	10/11/51	"	Coralville	"	140
	169018	10/11/51	"	Altoona	bakery goods	40
	169030	10/11/51	"	Atlantic	groceries	438
	169058	10/12/51	"	Colfax	rubber sheet	26
	169121	10/12/51	"	Brooklyn	wallpaper	255
	169122	10/12/51	"	Newton	notions	480
	169129	10/12/51	"	Brooklyn	notions	265
	169140	10/12/51	"	Brooklyn	groceries	278
	169235	10/15/51	"	Coralville	stations supplies	90
	169247	10/15/51	"	Colfax	dry goods	125

IOWA-NEBRASKA TRANSPORTATION CO., INC.

	Pro No.	Date	Origin	Destination	Commodity	Weight
CH	169250	10/15/51	Chicago	Marengo	candy	365
	169260	10/15/51	"	Brooklyn	garden bulbs	170
	169277	10/15/51	"	Brooklyn	groceries	82
	169328	10/16/51	Indnpls., Ind.	Neola	crmelback	103
	169332	10/16/51	Chicago	Bettendorf	oil	884
[fol. 2374]						
CH	169333	10/16/51	Chicago	Newton	chromic acid	1188
	169346	10/16/51	"	Davenport	meats	550
	169350	10/16/51	"	Avoca	drugs	341
	169352	10/16/51	"	Durant	dry compound	100
	169396	10/16/51	"	Atlantic	mince meat	216
	169453	10/17/51	"	Harlan	spring mattress	75
	169458	10/17/51	"	Iowa City	notions	64
	169461	10/17/51	"	Coralville	caramel apples	200
	169510	10/17/51	"	Dexter	separator	197
	169513	10/17/51	"	Minden	food curing comp	423
	169679	10/19/51	"	Harlan	peanuts	78
	169687	10/19/51	"	Stuart	notions	235
	169690	10/19/51	"	Avoca	groceries	264
	169693	10/19/51	"	Walnut	"	393
	169697	10/19/51	"	Anita	"	346
	169699	10/19/51	"	Victor	notions	90
	169715	10/18/51	"	Durant	power pump	824
	169717	10/19/51	"	Mitchellville	gum arabic	900
	169725	10/22/51	Baraboo, Wisc.	W. Liberty	dual dutyo	82
	169761	10/22/51	Chicago	Atlantic	clothing	244
	169762	10/22/51	"	Grinnell	dairy symp	355
	169767	10/22/51	"	Mitchellville	veg gum	314
	169809	10/22/51	"	Harlan	groceries	506
	169832	10/23/51	Alliance, O.	Davenport	elec appliances	168
	169864	10/23/51	Akron, Ohio	Marengo	notions	190
	169938	10/23/51	Chicago	Avoca	drugs	65
	169941	10/23/51	"	Brooklyn	batteries	210
	169954	10/24/51	Battle Creek, Neb.	Walnut	imp	195
	169963	10/24/51	Sandwich, Ill.	Brooklyn	pump	122
	169983	10/24/51	Chicago	Mitchellville	egg albumen	500
	170004	10/24/51	Menasha, Wisc.	Wilton Jct.	cellu wrps	152
	170025	10/24/51	Chicago	Coralville	peanuts	275
	170130	10/25/51	Chicago	Newton	groceries	276
	170131	10/25/51	"	Grinnell	"	94
	170139	10/25/51	"	Colfax	dry goods	105
	170156	10/25/51	"	Atlantic	groceries	194
	170158	10/25/51	"	Victor	notions	340
	170192	10/26/51	"	Harlan	candy	473
	170206	10/26/51	"	Walnut	receiving sets	227
	170240	10/29/51	"	Menlo	shoes	86
	170299	10/29/51	"	Colfax	tlt prep	231
	170367	10/30/51	"	Avoca	imp	950
	170389	10/30/51	"	Neola	jelly	205
	170400	10/30/51	"	Brookln	notions	469
	170409	10/30/51	"	Coralville	lavatories	94
	170412	10/30/51	"	Harlan	med cabinets	184
	170452	10/31/51	Grand Rpds., Mich.	Marengo	chair backs	70
	170484	10/31/51	Chicago	Stuart	notions	195
	170521	10/31/51	"	Walnut	groceries	180
	170549	11/ 1/51	E. Pittsbrg., Pa.	Wilton Jct.	elec equipment	6094
	170578	11/ 1/51	Chicago	Stuart	dry goods	269

IOWA-NEBRASKA TRANSPORTATION CO., INC.

	Pro No.	Date	Origin	Destination	Commodity	Weight
CH	170655	11/ 2/51	Chicago	Atlantic	hospital sply	103
	170698	11/ 2/51	"	Wilton Jct.	insecticide	146
	170745	11/ 5/51	"	Anita	batteries	263
	170746	11/ 6/51	"	Victor	"	210
	170867	11/ 7/51	"	Avoca	groceries	214
	170880	11/ 7/51	Eau Claire, Wisc.	Durant	calendars	66
	170901	11/ 7/51	Chicago	Altoona	bakery goods	50
	170926	11/ 7/51	"	Walnut	candy	68
	170937	11/ 7/51	"	Adair	groceries	255
	170938	11/ 8/51	"	Brooklyn	"	388
	171094	11/ 9/51	Cleveland, O.	Homestead	Wire	84
	171017	11/ 8/51	Chicago	Brooklyn	candles	170
	171146	11/ 9/51	"	Neola	groceries	390
	171187	11/12/51	New Bradford, Mass.	Minden	tire repair	86
	171189	11/12/51	Racine, Wisc.	Marengo	soap	150
	171192	11/12/51	Mil., Wisconsin	Durant	toys	450
	171205	11/12/51	Chicago	Mitchellville	egg albumen	250
[fol. 2575]						
CH	171292	11/13/51	Chicago	Brooklyn	ice cream cones	102
	171310	11/13/51	"	Coralville	peanuts	226
	171318	11/13/51	"	Stuart	electrical equip	408
	171345	11/14/51	Rockford, Mich.	Durant	shoes	82
	171350	11/14/51	Mishawka, Ind.	Marne	shoes	229
	171380	11/14/51	Chicago	Stuart	cards	36
	171384	11/14/51	"	Wilton Jct.	T.V. Sets	415
	171410	11/14/51	"	Avoca	tlt prep	50
	171491	11/15/51	"	Brooklyn	notions	505
	171619	11/19/51	Blmgton, Ill.	Brooklyn	vac cleaners	182
	171723	11/20/51	Battle Creek, M.	Harlan	bakery goods	275
	171729	11/20/51	Dayton, O.	W. Liberty	parts auto	60
	171785	11/20/51	Chicago	Atlantic	peanut oil	457
	171799	11/20/51	Chicago	Adair	groceries	273
	171810	11/20/51	"	Victor	notions	282
	171946	11/23/51	Big Rpds, Mich.	Wilton Jct.	Grinder blade	95
	172053	11/23/51	Chicago	Brooklyn	notions	334
	172112	11/26/51	Milw., Wisc.	Durant	plastic taps	50
	172129	11/26/51	Akron, O.	Stuart	bookd	160
	172154	11/26/51	Chicago	Mitchellville	egg albumen	252
	172212	11/27/51	"	Marengo	paint	150
	172274	11/28/51	Centralia, Ill.	Walnut	stove	270
	172293	11/28/51	Chicago	Victor	dryer	205
	172332	11/28/51	"	W. Liberty	sewer mch	100
	172349	11/29/51	Madison, Wisc.	Durant	castings	60
	172412	11/29/51	Chicago	Avoca	peanuts	128
	172541	11/30/51	"	Bettendorf	foodstuffs	411
	172568	12/ 3/51	Kingston, Pa.	Durant	Machy	32
	172623	12/ 4/51	Kensola, Wisc.	Marengo	cotton goods	65
	172843	12/ 5/51	Chicago	Neola	groceries	249
	172990	12/ 6/51	"	Colfax	boxes	1380
	177778	2/21/52	"	Anita	scoops	170
	177779	2/21/52	"	Adair	"	60
	177817	2/21/52	"	Mitchellville	gum arabic	600
	177871	2/22/52	"	Brooklyn	seat covers	Min
	177893	2/22/52	"	Avoca	furniture	280
	177922	2/22/52	"	Dexter	batteries	105
	177972	2/25/52	"	Atlantic	groceries	380

IOWA-NEBRASKA TRANSPORTATION CO., INC.

	Pro No.	Date	Origin	Destination	Commodity	Weight
CH	178090	2/26/52	Chicago	Neola	groceries	54
	178114	2/27/52	"	Colfax	brackets	267
	178242	2/28/52	"	Marengo	candy	357
	178311	29/52	"	Minden	shoes	90
	178453	3/ 3/52	"	Durant	T.V. Set	85
	178535	3/ 4/52	"	Avoca	peanuts	99
	178541	3/ 4/52	"	Harlan	coffee	115
	178544	3/ 4/52	"	Oakland	notions	205
	178589	3/ 5/52	"	Marengo	agri imp	66
	178626	3/ 5/52	"	Casey	batteries	105
	178628	3/ 5/52	"	Coralville	flashlites	22
	178697	3/ 6/52	"	Anita	furniture	156
	178826	3/ 7/52	"	Brookln	batteries	446
	178833	3/ 7/52	"	Victor	notions	550
	178852	3/ 7/52	"	Mitchellivlle	dry sizing	267
	178912	3/10/52	"	Atlantic	groceries	257
	178919	3/10/52	"	Harlan	prtd matter	45
	178920	3/10/52	"	Marengo	peanuts	406
	178938	3/10/52	"	Adair	groceries	271
	178941	3/10/52	"	Brooklyn	groceries	336
	178950	3/10/52	"	Colfax	Wire	246
	179662	3/11/52	"	Grinnell	Petrohol	418
	179077	3/12/52	Gr Rpds, Mich.	Durant	Imp	402
	179147	3/12/52	Chicago	Neola	groceries	289
	179201	3/13/52	"	Atlantic	picture frames	34
	179303	3/14/52	"	Menlo	groceries	248
	179304	3/14/52	"	Dexter	groceries	348
	179474	3/18/52	"	Oakland	sash	91
	179477	3/18/52	"	Minden	curing comp	428
	179534	3/19/52	"	Durant	alum ingats	1192
[fol. 2576]						
CH	179611	3/19/52	Chicago	Victor	notions	279
	179766	3/21/52	"	Adair	groceries	201
	179819	3/24/52	Rockford, Mich.	Brooklyn	shoes	69
	179948	3/25/52	Kohler, Wisc.	Marengo	sink	215
	180184	3/27/52	Chicago	Mitchellville	dry chemical	235
	180320	3/28/52	Grand Mich.	Durant	Maroons	86
	180519	4/ 1/52	Chicago	Coralville	groceries	257
	180632	4/ 2/52	Milw., Wisc.	Altoona	gramient bags	36
	180746	4/ 3/52	Chicago	Co. Bluffs	salted peanuts	83
	186792	4/ 3/52	Chicago	Colfax	auto parts	54
	180798	4/ 3/52	"	Mitchellville	egg albumen	485
	180914	4/ 4/52	Chicago	Victor	notions	245
	180926	4/ 7/52	Willmington, Ill.	Minden	clothing	35
	181001	4/ 7/52	Chicago	Harlan	groceries	397
	181163	4/ 9/52	"	Brooklyn	pig booster	250
	181209	4/ 9/52	"	Durant	sash	318
	181280	4/10/52	"	Oakland	work clothes	187
	181298	4/11/52	Bradley, Ill.	Marengo	furniture	377
	181339	4/11/52	Chicago	Des Moines	candy	670
	181442	4/14/52	"	Victor	notions	422
	181532	4/15/52	"	Iowa City	varnishes	225
	181550	4/15/52	"	Mitchellivlle	gum arabic	900
	181571	4/15/52	"	Grinnell	oleo	156
	181664	4/16/52	"	Davenport	auto parts	54
	181720	4/17/52	Joliet, Ill.	Avoca	wallpaper	168
	171724	4/17/52	Chicago	Newton	candy	406
	181726	4/17/52	"	Walnut	groceries	170

[fol. 2577] EXHIBIT No. 34

C-15.1

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
No. MC 44055

BOS TRUCK LINES, INCORPORATED,
MARSHALLTOWN, IOWA

February 17, 1948

REGULAR ROUTES:

General commodities, except those of unusual value, and except dangerous explosives, commodities in bulk, commodities requiring special equipment (not including those requiring refrigeration), and those injurious or contaminating to other lading,

Between Chicago, Ill., and Kearney and Hastings, Nebr., as follows:

From Chicago over Illinois Highway 64 to St. Charles, Ill., thence over Illinois Highway 31 to Geneva, Ill., thence over Alternate U. S. Highway 30 to junction U. S. Highway 30, thence over U. S. Highway 30 to junction Iowa Highway 131, thence over Iowa Highway 131 to Belle Plaine, Iowa, thence over Iowa Highway 212 to junction U. S. Highway 30, thence over U. S. Highway 30 to Missouri Valley, Iowa, thence over U. S. Highway 75 to Omaha, Nebr., thence over U. S. Highway 275 to junction U. S. Highway 30, and thence over U. S. Highway 30 to Kearney;

From Chicago to Missouri Valley as specified above, thence over U. S. Highway 30 to Kearney;

From Chicago over U. S. Highway 34 to junction Illinois Highway 65, thence over Illinois Highway 65 to Aurora, Ill., thence over Illinois Highway 31 to junction U. S. Highway 34, thence over U. S. Highway 34 to junction Illinois Highway 92, thence over Illinois Highway 92 to Rock Island, Ill., thence

over U. S. Highway 6 to Omaha, Nebr., thence over Nebraska Highway 38 to junction unnumbered highway, thence over unnumbered highway to Millard, Nebr., thence over Nebraska Highway 31 to junction U. S. Highway 6, and thence over U. S. Highway 6 to Hastings; and

Return over these routes to Chicago.

Service is authorized to and from all intermediate points on the above-specified routes; and the off-route points of Ferguson, Mitchellville, and Kellogg, Iowa.

Between Waterloo, Iowa, and Denison, Iowa:

From Waterloo over U. S. Highway 63 to junction Iowa Highway 58, thence over Iowa Highway 58 to Grundy Center, Iowa, thence over Iowa Highway 14 to Marshalltown, Iowa, thence over U. S. Highway 30 to junction Iowa Highway 64, thence over Iowa Highway 64 via Melbourne, Iowa, to junction Iowa Highway 253 (also from Marshalltown over Iowa Highway 14 to junction unnumbered highway, thence over unnumbered highway via Van Cleve and Haverhill, Iowa, to Melbourne), thence over Iowa Highway 235 to Rhodes, Iowa, thence over County Highway G via Collins, Iowa, to Maxwell, Iowa, thence over Iowa Highway 210 via Slater, Iowa, to Madrid, Iowa, thence over Iowa Highway 89 to Woodward, Iowa, thence over Iowa Highway 141 via Perry, Iowa, to [fol. 2578] junction U. S. Highway 59, and thence over U. S. Highway 59 to Denison, and return over the same route.

Service is authorized to and from all intermediate points; and the off-route points of Ferguson, Mitchellville, and Kellogg, Iowa.

Between Sterling, Ill., and Silvis, Ill.:

From Sterling over Illinois Highway 2 to Silvis, and return over the same route.

Service is not authorized to or from intermediate points.

Between Ames, Iowa, and Des Moines, Iowa:

From Ames over U. S. Highway 69 to Des Moines, and return over the same route.

Service is not authorized to or from intermediate points.

Between Carroll, Iowa, and Atlantic, Iowa:

From Carroll over U. S. Highway 71 to junction U. S. Highway 6, thence over U. S. Highway 6 to Atlantic, and return over the same route.

Service is not authorized to or from intermediate points.

Between Grand Island, Nebr., and Hastings, Nebr.:

From Grand Island over U. S. Highway 281 to Hastings, and return over the same route.

Service is not authorized to or from intermediate points.

GENERAL COMMODITIES, except those of unusual value and except dangerous explosives, commodities in bulk, and those requiring special equipment (other than those requiring refrigeration) minimum 20,000 pounds,

Between Des Moines, Iowa and the U. S. Ordnance Plant near Ankeny, Iowa:

From Des Moines over U. S. Highway 69 to the U. S. Ordnance Plant, near Ankeny, and return over the same route.

Service is not authorized to or from intermediate points.

PACKING-HOUSE AND DAIRY PRODUCTS, DRESSED POULTRY, CANNED GOODS, PETROLEUM PRODUCTS, IN CONTAINERS, AND IRON AND STEEL ARTICLES,

Between Omaha, Nebr., and Denver, Colo.:

From Omaha over Alternate U. S. Highway 30 through Wahoo and Osceola, Nebr., to junction U. S.

Highway 30, thence over U. S. Highway 30 through Central City and Brule, Nebr., to junction U. S. Highway 138, thence over U. S. Highway 138 to Sterling, Colo., and thence over U. S. Highway 6 to Denver, and return over the same route.

Service is authorized to and from the intermediate points of Central City, Nebr., and Sterling and Fort Morgan, Colo.

Service is authorized from the off-route points of Fremont, Ravenna, and Oxford, Nebr., restricted to pick-up of dairy products and dressed poultry, and Blair, Plattsmouth, and Nebraska City, Nebr., restricted to pick-up of canned goods.

[fol. 2579] *Heating supplies and equipment,*

From Chicago, Ill., to Michigan City, Ind.:

From Chicago over U. S. Highway 20 to Junction Indiana Highway 43, thence over Indiana Highway 43 to Michigan City; and

Return with no transportation for compensation over the same route to Chicago.

Service is not authorized to or from intermediate points.

IRREGULAR ROUTES:

Fresh meats and packing house products,

From Omaha and South Omaha, Nebr., to points and places in Benton, Boone, Cedar, Carroll, Dallas, Grundy, Guthrie, Hamilton, Harding, Iowa, Jasper, Johnson, Linn, Marshall, Muscatine, Poweshiek, Story and Tama Counties, Iowa.

Butter, eggs, dressed poultry, and feathers,

From points and places in Benton, Boone, Carroll, Dallas, Fayette, Green, Grundy, Hardin, Iowa, Jasper, Madison, Marshall, Page, Poweshiek, Ringgold, Story, Tama, and Taylor Counties, Iowa, and Maryville, Mo., to Chicago and La Grange, Ill.

Flour and feed,

From Omaha, Nebr., to points and places in Iowa on and south of U. S. Highway 20.

Road machinery,

From Omaha, Nebr., to points and places in Colorado on and east of U. S. Highway 87, those in Kansas on and east of U. S. Highway 81, those in Illinois on and north of U. S. Highway 36, and those in Iowa.

Dried beans,

From Denver and Greeley, Colo., and Scottsbluff, and Minatore, Nebr., to Omaha, Nebr., points and places in Iowa on and south of U. S. Highway 20, and those in Illinois on and north of Illinois Highway 9.

Canned goods,

From Lawrence, Lansing, Coleman, Bay City, Fremont, Sturgeon, Traverse City, Lake Odessa, and Shelby, Mich., and points and places in Wisconsin, to Mason City, Marshalltown, Carroll, Des Moines, Oskaloosa, Cedar Rapids, Davenport, Dubuque, Sheldon, Ottumwa, Sioux City, Fort Dodge, Laurens, Waterloo, and Webster City, Iowa.

From Roland, Grundy Center, Oskaloosa, Cambridge, and Gilman, Iowa to Chicago, Ill.

Canned goods and groceries,

From Marshalltown, Roland Ackley, Hampton, Grundy Center, Waverly, Oskaloosa, and Cambridge, Iowa, to Beaver Dam, Milwaukee, and Madison, Wis.

[fol. 2580] *Paper and paper products,*

From Green Bay, Wis., to Marshalltown, Cedar Rapids, Davenport, and Ottumwa, Iowa.

Cheese

From Monroe, Green Bay, Manitowoc, Doylestown, Platteville, and Plymouth, Wis., to Des Moines, Iowa.

Canned Milk,

From Waupun, Wis., to Des Moines, Iowa.

Powdered milk,

From Madison, Bloomer, Lake Mills, Troy, and Waterloo, Wis., to Des Moines, Iowa.

Butter,

From Slater, Iowa, to Buffalo, N. Y.

From Marshalltown, Iowa, to Youngstown, Ohio.

Furnace castings,

From Jackson, Ohio, to Marshalltown, Iowa.

Electric motors,

From Lima, Ohio, and Fort Wayne, Ind., to Marshalltown, Iowa.

Furnaces and furnace parts,

From Columbus, Ohio to Chicago, Rockford, Joliet and Peoria, Ill., Gary, Fort Wayne, South Bend, and Hammond, Ind., Madison, Sheboygan, and Manitowoc, Wis., and Cedar Rapids, Davenport, and Des Moines, Iowa.

Return with no transportation for compensation except as otherwise authorized to the above-specified origin points.

General commodities, except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods,* 17 M.C.C. 467, commodities in bulk, and those requiring special equipment (not including those requiring refrigeration).

Between points and places in the CHICAGO, ILL., COMMERCIAL ZONE as defined by the Commission in 1 M.C.C. 673, and Chicago Heights and Elmhurst, Ill., as an extension of said carrier's presently authorized operations.

Heating furnaces, heating equipment and supplies, and foundry equipment and supplies,

Between Marshalltown, Iowa, and Columbus, Ohio.

Eggs, dressed poultry and live poultry,

From Fairfield, Iowa, to Chicago, Ill.

[fol. 2581] *Rejected shipments* of the immediately above-specified commodities,

From Chicago, Ill., to Fairfield, Iowa.

Household goods,

Between Marshalltown, Iowa, and points and places in Iowa within 100 miles of Marshalltown, on the one hand, and, on the other, points and places in Illinois and Nebraska.

Any repetition in the statement of the authority granted herein shall not be construed as conferring more than a single operating right.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

No. MC 44055 SUB 24

December 2, 1948

General commodities, except those of unusual value, dangerous explosives, commodities in bulk, and commodities requiring special equipment (not including those requiring refrigeration), over alternate regular routes for operating convenience only in connection with said carrier's presently authorized regular-route operation.

Between junction U. S. Highway 30 and Iowa Highway 131, and junction U. S. Highway 30 and Iowa Highway 212:

From junction U. S. Highway 30 and Iowa Highway 131 over U. S. Highway 30 to junction Iowa Highway 212.

Between Belle Plaine, Iowa and Marengo, Iowa.

From Belle Plaine over Iowa Highway 212 to Marengo.

Between junction U. S. Highway 6 and Iowa Highway 64, and Marshalltown, Iowa:

From junction U. S. Highway 6 and Iowa Highway 64, over Iowa Highway 64 to junction U. S. Highway 30, thence over U. S. Highway 30 to junction Iowa Highway 14, thence over Iowa Highway 14 to Marshalltown.

Between junction U. S. Highway 30 and U. S. Highway 330 near Lamoille, Iowa, and junction U. S. Highway 30 and Iowa Highway 64:

From junction U. S. Highway 30 and U. S. Highway 330 near Lamoille, Iowa over U. S. Highway 30 to junction Iowa Highway 64.

Between junction U. S. Highway 30 and Iowa Highway 14, and junction U. S. Highway 30 and U. S. Highway 330 (approximately 5 miles southeast of Marshalltown):

From junction U. S. Highway 30 and Iowa Highway 14 over U. S. Highway 30 to junction U. S. Highway 330.

Between junction U. S. Highway 30 and alternate U. S. Highway 30, near Sterling, Ill., and junction U. S. Highway 20 and Indiana Highway 49, as follows:

[fol. 2582] From junction U. S. Highway 30 and alternate U. S. Highway 30, over U. S. Highway 30 to junction Indiana Highway 49, thence over Indiana Highway 49 to junction U. S. Highway 20.

Return over these routes.

Service is not authorized to or from intermediate points.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

MC-44055 Sub 25

December 2, 19 3

IRREGULAR ROUTES:

Canned goods and *groceries,*

From Marshalltown, Iowa, to Norfolk, Nebr., with no transportation for compensation on return except as otherwise authorized.

Iron castings, heating furnaces, furnace parts, heating equipment and *supplies* and *foundry equipment* and *supplies,*

From Marshalltown, Iowa, to Kenosha, Racine and Milwaukee, Wis., with no transportation for compensation on return except as otherwise authorized.

Malt beverages,

From Milwaukee, Wis., to Marshalltown, Iowa.

Empty malt beverage containers,

From Marshalltown, Iowa, to Milwaukee, Wis.

Authority is granted to traverse Illinois for operating convenience only.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

MC-44055 Sub 27

June 2, 1950

Lawn mowers, over irregular routes,

From Marshalltown, Iowa to Akron, Ohio with no transportation for compensation on return except as otherwise authorized.

MC-44055 Sub 28

October 13, 1949

Eggs, over irregular routes,

From Marshalltown, Iowa to Youngstown, Ohio, traversing Illinois and Indiana for operating convenience only, with no transportation for compensation on return except as otherwise authorized.

[fol. 2583] MC-44055 Sub 29

October 13, 1949

Prepared cereal foods, over irregular routes,

From Fremont, Mich., to Mason City, Carroll, Des Moines, Sheldon, Sioux City, Fort Dodge, Laurens, and Webster City, Iowa, traversing Indiana and Illinois for operating convenience only, with no transportation for compensation on return except as otherwise authorized.

MC-44055 Sub 30

November 10, 1949

Air registers, for heating furnaces, over irregular routes,

From Lima, Ohio to Marshalltown, Iowa and Omaha, Nebraska, traversing Illinois and Indiana for operating convenience only, with no transportation for compensation on return except as otherwise authorized.

MC-44055, Sub 32

May 28, 1951

IRREGULAR ROUTES:

Heating furnaces, furnace parts, and *heating equipment* and *supplies*

Between Marshalltown, Iowa, and Syracuse, N. Y.

Butter and eggs,

From Marshalltown, Iowa to Pittsburgh, Pa.

Empty cartons and containers used in the shipping of butter and eggs,

From Pittsburgh to Marshalltown.

MC-44055, Sub 34

August 24, 1951

IRREGULAR ROUTES:

Dressed poultry and *eggs,*

From Creston, Iowa, to Racine, Madison, and Milwaukee, Wis.

Steel kitchen cabinets, steel storage cabinets, sinks, and *dish washing machines,* except uncrated in all instances,

From Warren, Ohio to Des Moines, Iowa.

The commodities classified as (a) meats, meat products, and meat by-products, (b) dairy products, and (c) articles distributed by meat packing houses, in the appendix to the report in *Modification of Permits-Packing House Products,* 48 M.C.C. 628,

From Cedar Rapids, Iowa, to Milwaukee, Madison, La Crosse, Kenosha, and Racine, Wis.

Return with no transportation for compensation except as otherwise authorized.

REGULAR ROUTES:

General commodities, except those of unusual value, dangerous explosives, commodities in bulk, those requiring special equipment, and those injurious or contaminating to other lading,

Between Waterloo and Iowa City, Iowa:

From Waterloo over U. S. Highway 218 to Iowa City, and return over the same route.

Service is authorized to and from the intermediate point of Cedar Rapids, Iowa.

[fol. 2584] EXHIBIT No. 35

BOS TRUCK LINES, INCORPORATED
508 S. 12th Avenue
Marshalltown, Iowa

BALANCE SHEET
Mar. 31, 1952

ASSETS

Current Assets		
Cash on hand	$ 7,484.23	
Special Deposits	4,033.02	
Accounts Receivable — trade	34,306.00	
Accounts Receivable — other	726.86	
Materials and supplies	27,051.02	
Total current assets		$ 73,601.13
Operating property	536,286.76	
Less: Reserve for depreciation	249,666.24	
		285,620.52
Non-Operating property	1,242.92	
Less: Reserve for depreciation	621.00	
		621.92
Intangible property		3,500.00
Prepaid expenses		28,308.59
Total assets		$392,652.16

LIABILITIES AND CAPITAL

Current Liabilities		
Note payable	$ 10,000.00	
Accounts payable	52,683.84	
Wages payable	26,382.78	
C.O.D.'s unremitted	1,039.53	
Accrued taxes payable	19,948.21	
Total current liabilities		$110,054.36
U. S. Government O.D.T.		10,000.00
Reserve for operating rights		3,500.00
Reserve for cargo loss and damage claims		2,820.11
Capital stock		25,000.00
1952 profit — 1st quarter	22,689.18	
Earned surplus	218,588.51	241,277.69
Total liabilities		$392,652.16

• • • • • • • • • • • •

OPERATING STATEMENT

THREE MONTH PERIOD ENDED MARCH 31, 1952

Operating Revenue		$271,626.32
Operating Expenses		
Equipment maintenance	$ 45,763.59	
Transportation expense	104,533.78	
Terminal expense	25,749.92	
Traffic expense	1,332.16	
Insurance and safety expense	10,052.19	
Administrative and general	19,292.81	
Depreciation expense	19,926.28	
Operating taxes and licenses	15,357.25	
Operating rents	8,205.00	
Total operating expenses		250,212.98
Net operating income		21,413.34
Other income—(expense) net		1,275.84
Net profit before income tax		22,689.18
Provision for income tax		5,675.00
Net income		$ 17,014.18

[fol. 2585] EXHIBIT NO. 36

C-15.1

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

No. MC 53980*

DES MOINES TRANSPORTATION COMPANY, INC.,
DES MOINES, IOWA

At a Session of the INTERSTATE COMMERCE COMMISSION, Division 5, held at its office in Washington, D. C., on the 17th day of March, A. D., 1947

AFTER DUE INVESTIGATION, It appearing that the above-named carrier has complied with all applicable provisions of the Interstate Commerce Act, and the requirements, rules, and regulations prescribed thereunder, and, therefore, is entitled to receive authority from this Commission to engage in transportation in interstate or foreign commerce as a motor carrier; and the Commission so finding:

IT IS ORDERED, That the said carrier be, and it is hereby, granted this Certificate of Public Convenience and Necessity as evidence of the authority of the holder to engage in transportation in interstate or foreign commerce as a common carrier by motor vehicle; subject, however, to such terms, conditions, and limitations as are now, or may hereafter be, attached to the exercise of the privileges herein granted to the said carrier.

IT IS FURTHER ORDERED, That the transportation service to be performed by the said carrier in interstate or foreign commerce shall be as specified below:

REGULAR ROUTES:

General commodities, except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods,* 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading,

Between Chicago, Ill., and Des Moines, Iowa, as follows:

From Chicago over U. S. Highway 34 to junction Illinois Highway 65, thence over Illinois Highway 65 to Aurora, Ill., thence over Illinois Highway 31 to junction U. S. Highway 34, thence over U. S. Highway 34 to junction Illinois Highway 92, thence over Illinois Highway 92 via Yorktown, Ill., to Moline, Ill., thence over U. S. Highway 6 to Iowa City, Iowa, thence over U. S. Highway 218 to Cedar Rapids, Iowa, thence over U. S. Highway 30 to Ames, Iowa, and thence over U. S. Highway 69 to Des Moines.

From Chicago to Yorktown as specified above, thence over Illinois Highway 92 to junction Illinois Highway 78, thence over Illinois Highway 78 to junction U. S. Highway 30, thence over U. S. Highway 30 to Ames, Iowa, and thence over U. S. Highway 69 to Des Moines;

From Chicago to Iowa City as specified above, thence over U. S. Highway 6 to Des Moines; and Return over these routes to Chicago.

[fol. 2586] Service is authorized to and from the intermediate points of Davenport, Iowa City, Newton, Cedar Rapids, Ames, Marengo, Grinnell, and Kellogg, Iowa; and the intermediate and off-route points of Villa Park and Chicago Heights, Ill., and those in the CHICAGO, ILL., COMMERCIAL ZONE, as defined by the Commission, in 1 M.C.C. 673.

Between Omaha, Nebr., and Des Moines, Iowa:

From Omaha over U. S. Highway 6 ~~to~~ Des Moines, and return over the same route.

Service is authorized to and from the intermediate points of Council Bluffs, Atlantic, and Adel, Iowa.

IRREGULAR ROUTES:

Butter, eggs, and *dressed poultry,*

From Des Moines, Denison, Creston, Osceola, Leon, Perry, Gowrie, Atlantic, and Coon Rapids, Iowa, to Chicago, Ill.

Meat and *packing-house products and supplies,*

From Des Moines, Iowa, to Elgin, Galesburg, Jacksonville, Joliet, Marengo, Ottawa, Peoria, Springfield, Belvidere, Bloomington, Lincoln, Clinton, Pontiac, Naperville, Chicago, Rock Island, La Salle, Sterling, Dixon, Rochelle, DeKalb, Aurora, Freeport, Rockford, and Dwight, Ill.

From Chicago, Ill., to Adel, Cedar Rapids, Clarion, Creston, Fort Dodge, Guthrie Center, Jefferson, Mason City, Mount Ayr, Perry, Winterset, and Muscatine, Iowa.

From Perry, Atlantic, Centerville, Clarinda, Creston, Guthrie Center, and Ottumwa, Iowa, to Chicago, Ill.

Butter and *eggs,*

From Glidden, Iowa, to Chicago, Ill.

From Slater, Iowa, to Buffalo, N. Y., traversing Indiana, Ohio, and Pennsylvania for operating convenience only.

Alcoholic liquors,

From Peoria and Pekin, Ill., to Des Moines, Iowa.

Mail-order catalogs,

From Des Moines and Davenport, Iowa, to points and places in Iowa.

Return with no transportation for compensation except as otherwise authorized to the above-specified origin points.

General commodities, except those of unusual value, and except dangerous explosives, commodities in bulk, and those requiring special equipment,

[fol. 2587] From Des Moines, Iowa, to points and places in Iowa within 100 miles of Des Moines, and return with no transportation for compensation, except as otherwise authorized, to Des Moines.

General commodities, except those of unusual value, and except dangerous explosives, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading,

Between Bettendorf and Davenport, Iowa, on the one hand, and, on the other, Rock Island, Moline, East Moline, Carbon Cliff, Silvis, and Milan, Ill.

Advertising materials, supplies, and equipment,

From Davenport, Iowa, to points and places in that part of Illinois north of a line drawn from the Iowa-Illinois State line along U. S. Highway 34 to junction

Illinois Highway 116, thence along Illinois Highway 116 to Peoria, Ill., thence along U. S. Highway 24 to Chenoa, Ill., and thence along U. S. Highway 66 to Chicago, including points and places on the indicated portions of the highways specified, with no transportation for compensation on return, except as otherwise authorized.

IT IS FURTHER ORDERED, and is made a condition of this certificate that the holder thereof shall render reasonably continuous and adequate service to the public in pursuance of the authority herein granted, and that failure so to do shall constitute sufficient grounds for suspension, change, or revocation of this certificate.

AND IT IS FURTHER ORDERED, That this certificate shall supersede the certificate issued to the above-named carrier in this proceeding on February 17, 1945, in its entirety, and that issued to its predecessors in interest under Docket No. MC 13150 on June 28, 1943, and under Docket No. MC 68548 on May 5, 1942, with respect to the operating rights authorized herein, and said certificates are hereby canceled to that extent; a portion of the operating rights authorized in the latter certificates having been duly transferred to the above-named carrier as set forth in the footnote appended hereto.

By the Commission, division 5.

W. P. Bartel,
Secretary

(SEAL)

* This certificate embraces (1) the operating rights previously granted the above-named carrier under Docket No. MC 53980, including the consolidation noted on the previous certificate, (2) a portion of the operating rights granted White Line Transfer & Storage Company, Inc., Docket No. MC 13150, purchased by the above-named carrier pursuant to MC-F 2990, approved June 12, 1946; and (3) a portion of the operating rights granted Margaret Plagmann, doing business as Plagmann Transfer Co., Docket No. MC 68548, purchased by the above-named carrier pursuant to MC-F 3170, decided September 17, 1946.

[fol. 2588] C-15.1

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

No. MC 53980 Sub 9*

DES MOINES TRANSPORTATION COMPANY, INC.,
DES MOINES, IOWA

At a Session of the INTERSTATE COMMERCE COMMISSION, Division 5, held at its office in Washington, D. C., on the 14th day of May, A. D., 1951

AFTER DUE INVESTIGATION, It appearing that the above-named carrier has complied with all applicable provisions of the Interstate Commerce Act, and the requirements, rules, and regulations prescribed thereunder, and, therefore, is entitled to receive authority from this Commission to engage in transportation in interstate or foreign commerce as a motor carrier; and the Commission so finding:

IT IS ORDERED, That the said carrier be, and it is hereby, granted this Certificate of Public Convenience and Necessity as evidence of the authority of the holder to engage in transportation in interstate or foreign commerce as a common carrier by motor vehicle; subject, however, to such terms, conditions, and limitations as are now, or may hereafter be, attached to the exercise of the privileges herein granted to the said carrier.

IT IS FURTHER ORDERED, That the transportation service to be performed by the said carrier in interstate or foreign commerce shall be as specified below:

REGULAR ROUTES:

General commodities, except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, and those requiring special equipment.

Between Des Moines, Iowa, and Eagle Grove, Iowa:

From Des Moines over U. S. Highway 69 to junction Iowa Highway 175, thence over Iowa Highway 175 to junction Iowa Highway 60, thence over Iowa Highway 60 to Webster City, Iowa, thence over unnumbered highways to Woolstock, Iowa, thence over Iowa Highway 323 to junction Iowa Higliway 60, and thence over Iowa Highway 60 to Eagle Grove, and return over the same route.

From Des Moines over U. S. Highway 69 to junction U. S. Highway 20, thence over U. S. Highway 20 to Webster City, and thence to Eagle Grove as specified above, and return over the same route.

Service is authorized to and from the intermediate points of Stanhope and Woolstock, Iowa; and the off-route points of Stratford, Kamrar, and Vincent, Iowa.

[fol. 2589] Between Des Moines, Iowa, and Denison, Iowa:

From Des Moines over U. S. Highway 69 to Ames, Iowa thence over U. S. Highway 30 to Denison, and return over the same route.

Service is authorized to and from the intermediate points of Ankeny, Huxley, Ames, Ericson, Jordon, Boone, Ogden, Beaver, Grand Junction; Jefferson, Scranton, Ralston, Glidden, Carroll, West Side, and Vail, Iowa, and the off-route point of Arcadia, Iowa.

General commodities, except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading.

Between Coon Rapids, Iowa, and Omaha, Nebr., as follows:

From Coon Rapids over Iowa Highway 141 to junction U. S. Highway 71, thence over U. S. Highway 71 to Hamlin, Iowa, thence over Iowa Highway 64 to Council Bluffs, Iowa, and thence across the Missouri River to Omaha.

From Coon Rapids over unnumbered highways to junction U. S. Highway 30, thence over U. S. Highway 30 to Missouri Valley, Iowa, and thence over Alternate U. S. Highway 30 to Omaha.

Return over these routes to Coon Rapids.

Service is authorized to and from intermediate and off-route points in Greene, Carroll, Audubon, and Guthrie Counties, Iowa, not including the points of Jefferson, Guthrie Center, Manning, Lanesboro, and Panora.

General commodities, except those of unusual value, and except livestock, dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading,

Between Des Moines, Iowa, and Clarion, Iowa, and St. Paul, and Minneapolis, Minn., as follows:

From Des Moines over U. S. Highway 69 to junction Iowa Highway 3, thence over Iowa Highway 3 to Clarion.

From Des Moines over U. S. Highway 69 to Garner, Iowa, thence over U. S. Highway 18 to Mason City, Iowa, thence over U. S. Highway 65 to Owatonna, Minn., thence over Minnesota Highway 218 via Rosemount, Minn., to St. Paul.

From Des Moines to Rosemount, Minn., as specified above, thence over Minnesota Highway 218

to junction Minnesota Highway 55, and thence over Minnesota Highway 55 to Minneapolis.

Return over the above-specified routes to Des Moines.

[fol. 2590] Service is authorized to and from the intermediate points of Ankeny, Huxley, Ames, Jewell, Blairsburg, Belmont, Goodell, Garner, Ventura, Clear Lake, Mason City, Manley, Kensett, and Northwood, Iowa, and Gordonsville, Glenville, Albert Lea, Clarks Grove, Geneva, Steele Center, Owatonna, Medford, Faribault, Dundas, Northfield, Farmington, and Rosemount, Minn.; the off-route points of Story City, Galt, and Klemme, Iowa, and Austin and Scotchlite, Minn.; and intermediate and off-route points in the Minneapolis-St. Paul Minn. Commercial Zone, as defined by the Commission.

Between Des Moines, Iowa and Mason City, Iowa, as an alternate route for operating convenience only:

From Des Moines over U. S. Highway 65 to Mason City, and return over the same route.

Service is not authorized to or from intermediate points.

IRREGULAR ROUTES:

Seed corn, during the season extending from the 15th day of February to the 15th day of April, inclusive,

Between Coon Rapids, Iowa, on the one hand, and, on the other, points in Nebraska, and those in that part of Missouri north of the Missouri River.

The authority herein granted, to the extent it duplicates any heretofore granted said carrier, shall not be construed as conferring more than one operating right.

AND IT IS FURTHER ORDERED, and is made a condition of this certificate that the holder thereof shall render reason-

ably continuous and adequate service to the public in pursuance of the authority herein granted, and that failure so to do shall constitute sufficient grounds for suspension, change, or revocation of this certificate.

By the Commission, division 5.

W. P. Bartel,
Secretary

(SEAL)

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* This certificate embraces that portion of the operating rights in Certificate No. MC 107496 and all of the operating rights in Certificate No. MC 107496 Sub 13, purchased by the above-named carrier pursuant to MC-F 4744, and assigned No. MC 53980 Sub 9.

Note

Pages 1979 - 1983 are
on Card 31

EXHIBIT No. 42

(P. 1984)

[fol. 2596] **DES MOINES TRANSPORTATION CO.**

FROM D MOINES TO TRI CITIES DATE 1 4 51L

DRIVER Jean TRACTOR TRAILER 125 SEAL NO.

FREIGHT BILL NO.	SHIPPER	CONSIGNEE	DESTINATION	NO. PIECES	WEIGHT	REVENUE
737029	STUTSMAN CO	J D PLOW	MOLINE ILL	26	2298	
851504	PERFEX MFG	GEIEMANS	DAVENPORT	50	1340	
851503	PERFEX MFG	F RBER GRO	DO	20	360	
851502	DO	WSTN GROCER	DO	190	5205	
851500	DO	BOND DRUG	MOLINE ILL	25	670	
851499	DO	ILL HLS GRO	RK ISLAND	45	825	
851497	DO	MORRISON AND BERGREN	MOLINE	10	198	
851498	PERFEX MFG	GEIFMAN SUPER MKT	RK ISLAND	55	1540	
851513	DO	WHITES MKT	DAVENPORT	10	201	
851511	PERFEX MFG	GRAYS IGA SUPR	DO	10	210	
851493	FENN BROS	CANDY SPLY	DO	50	500	
						13347

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DES MOINES OFFICE COPY

No. 2596

[fol. 2597]

EXHIBIT No. 43
DES MOINES TRANSPORTATION Co.

(P. 1985)

FROM DES MOINES, I. TO TRI CITYES DATE ~~2 3 52~~ 11-0

DRIVER TRACTOR TRAILER 349 SEAL NO. 12204 05

	FREIGHT BILL NO.	SHIPPER	CONSIGNEE	DESTINATION	NO. PIECES	WEIGHT	REVENUE
	894949	RUSHMAN HWSE	PAETZ GROC	MUSCATINE	10	106	
	896019	ALEX SMITH	FICKEL FURN	DO	"	106	
	894979	COLEMAN CO	G L TIMMERMA	DVNRPT	2	54	
	894980	COLEMAN CO	G J TIMMERMAN	DO	60	529	
	995822	B F GO DRI H	MONT WARD	DVNPRT	7	360	
	894946	BUS WHSE	GIELFMAN MRKT	RK ISL	30	400	
	404160	MERCHTNAS	STURTVANT DAIRY	RK ISL	2	1020	
	896020	MODERN VENT	MONT WARD	MOLINE	12	668	
	894948	BUS WHSE	EAGLE SUP MKT	MOLINE	75	910	
	894941	BUS WHSE	TRI CITY WHSE	KKKKKKKKK A MOLINE	20	255	
	894955	BUS WHSE	TENEBOR CHIC	DVNPORT	25	3[illegible]0	
	894940	BUS WHSE	BETTARC FOOD	DVNPRT	15	243	
	894956	BUS WHSE	[illegible]SH FITCH	DO	50	6[illegible]	
	894957	DO	C A [illegible]KLEFF WHSE	DVNPRT I	30	320	
	894909	AUBURN MACH	ILL GAS	RK ISL	1	142	
	894930	DO	LAGARCITO GROPE	DVNPRT	10	107	
	894926	WESTINGHOUSE	WESTINGHOUS	DVNPORT	1	70	
	895091	[illegible] STATES CHEM	DNT BANK PROT	DVNPRT	5	450	
	896071	TIDY HOUE PROD	[illegible] CO	DVNPRT	25	425	
	404204	GUI WIRE	MORESE WELLS	DECATURE	61	1570	

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DES MOINES OFFICE COPY

No. 2597

1986

Exhibit No. 44

[fol. 2598]

DES MOINES TRANSPORTATION CO.

CA 3171-55

FROM DES MOINES TO ROCK ISLAND DATE 2/19/52

DRIVER BROWN TRACTOR TRAILER SUMMIT 168 SEAL NO 13692-13693

FREIGHT BILL NO.	SHIPPER	CONSIGNEE	DESTINATION	NO. PIECES	WEIGHT	REVENUE
897752	WALGREEN CO	WALGREEN CO	ROCK ISLAND	1	M	
897809	ENGINEERING SALES	DAVE PORT RESLER	DAVENPORT	1	40	
897808	GSA FEDERAL SPLY	CUSTODIAN US POST O	DO	1	50	
453370	MID CONTINENT DIST	RUAN TRANSPORT	PEKIN, ILL	4	450	
453370	MONTGOMERY WARD & CO	HIMMER MFG	SPRINGFIELD	1	24	
897906	PICKER XRAY CORP	S W SWAYZE MD	MUSCATINE	1	150	
897810	MORRIS SAX AND SON	CARR CONSOL. BISCUIT	ROCK ISLAND	10	700	
896826	TIDY HOUSE PRODUCTS	THE GREAT A P TEA	DAVENPORT	45	765	
453500	HEIDER MANUFACTUR	BUILDERS LBR CO	MOLINE, ILL	31	1021	
364293	DES MOINES TRANSP	CARMAN CO	ROCK ISLAND	11	526	
453555	FENN BROS CO	ROCK ISL ND TOB CO	DO	5	WCH	
997987	PILLSBURY MILLS	G S JOHNSON CO	DAVENPORT	2	80	
					3786	

1987

Exhibit No. 45

[fol. 2599]

DES MOINES TRANSPORTATION CO.

CA 3171-55

DES MOINES — MARENGO — 2-5 51 ER

FROM — TO — DATE

ALGER 462

DRIVER CLEMENT — TRACTOR — TRAILER — SEAL NO.

	FREIGHT BILL NO.	SHIPPER	CONSIGNEE	DESTINATION	NO. PIECES	WEIGHT	REVENUE
	721381	DEMPSTER MILL MFG CO	FARMERS GRAIN & CO	MARENGO	3	300	
	641665	PERFEX MFG CO	MESSERS GROC & MKT	DO	10	219	
						519	

1988

EXHIBIT No. 46

[fol. 2600] **DES MOINES TRANSPORTATION CO.**

FROM DES MOINES TO KELLOGG DATE 2 1 1 61

DRIVER HANSEN TRACTOR TRAILER 138 SEAL NO.

	FREIGHT BILL NO.	SHIPPER	CONSIGNEE	DESTINATION	NO. PIECES	WEIGHT	REVENUE
	719328	APPLIANCE ENGR CO	MIDWEST MTL STPG	KELLOGG	1	1680	
	A302082	DO	DO	DO	1	1680	
	A404547	DO	DO	DG	2	640	
						4000	

1989

EXHIBIT No. 47

[fol. 2601]

DES MOINES TRANSPORTATION CO.

FROM DES MOINES TO CHICAGO PDLE DATE 1 27 52 DW

DRIVER F OSBORNE TRACTOR TRAILER MCM 134 SEAL NO 21584

	FREIGHT BILL NO.	SHIPPER	CONSIGNEE	DESTINATION	NO. PIECES	WEIGHT	REVENUE
	894543	NORTH AMER BATTERY	HOUSER SERV	MARENGO	6	240	
	403037	SAXE FREEMAN	BARTUSEK CLEANERS	MARENGO	1	FA	
	892118	SOC VAC	MIDWEST METAL	KELLOGG	2	914	

1154

1990

EXHIBIT No. 48

[fol. 2602]

DES MOINES TRANSPORTATION CO.

FROM DES MOINES TO CHICAGO PDLE DATE 2 5 52

DRIVER DONNEY TRACTOR TRAILER K-177 SEAL NO 12291 12291

FREIGHT BILL NO.	SHIPPER	CONSIGNEE	DESTINATION	NO. PIECES	WEIGHT	REVENUE
245028	BADGER PROD	LEO KELLEY	MARENGO	2	60	
144824	HACH BROS	QUALITY BAKERY	DO	2	140	
245121	BOYLE MIDWAY	BROWN HOUSE	DO	16	199	
					399	

453370	MID CONTINENT DIST	RUAN TRANSPORT	PERIN, ILL	4	450
453370	MONTGOMERY WARD & CO	HIMMER MFG	SPRINGFIELD	1	24
897906	PICKER XRAY CORP	S W SWAYZE MD	MUSCATINE	1	150
897810	MORRIS SAX AND SON	CARR CONSOL. BISCUIT	ROCK ISLAND	10	700
896826	TIDY HOUSE PRODUCTS	THE GREAT A P TEA	DAVENPORT	45	765
453500	HEIDER MANUFACTUR	BUILDERS LBR CO	MOLINE, ILL	31	1021
364293	DES MOINES TRANSP	CARMAN CO	ROCK ISLAND	11	526
453555	FENN BROS CO	ROCK ISL NO TOB CO	DO	5	WCH
997987	PILLSBURY MILLS	G S JOHNSON CO	DAVENPORT	2	80
					3786

4300

PATD. THE SHELBY SALESBOOK CO., SHELBY, OHIO Δ901

DES MOINES OFFICE COPY

No. 2600

892118	SOC VAC	MIDWEST METAL	KELLOGG	2	914	1154

399

[fol. 2603] EXHIBIT No. 49

ANALYSIS OF REVENUE, PROFIT, TONS HANDLED AND EQUIPMENT BY YEARS.

Year	Tons Handled	Total Revenues	Profit before taxes	Profit after taxes	No. of Units		
					Trucks	tractors	trailers
1944	49,871	490,433	(16,152)	(16,152)	18	32	34
1945	51,452	503,504	(36,423)	(36,423)	22	30	34
1946	58,178	589,858	19,200	19,200	21	34	43
1947	88,146	1,040,002	46,031	31,228	32	51	64
1948	124,363	1,738,553	22,422	14,926	36	61	94
1949	134,455	1,873,432	28,162	20,609	44	61	100
1950	178,540	2,459,065	30,688	16,379	54	76	145
1951	182,226	2,737,130	26,995	16,664	54	93	160

[fol. 2604] EXHIBIT No. 50

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

NO. MC 111154*

G. H. WOLTER,
DOING BUSINESS AS P. & W. TRUCK LINE,
ALBIA, IOWA

At a Session of the INTERSTATE COMMERCE COMMISSION, Division 5, held at its office in Washington, D. C., on the 25th day of November, A. D., 1949.

AFTER DUE INVESTIGATION, It appearing that the above-named carrier has complied with all applicable provisions of the Interstate Commerce Act; and the requirements, rules, and regulations prescribed thereunder, and, therefore, is entitled to receive authority from this Commission to engage in transportation in interstate or foreign commerce as a motor carrier; and the Commission so finding;

IT IS ORDERED, That the said carrier be, and it is hereby, granted this Certificate of Public Convenience and Necessity as evidence of the authority of the holder to engage in transportation in interstate or foreign commerce as a common carrier by motor vehicle; subject, however, to such terms, conditions, and limitations as are now, or may hereafter be, attached to the exercise of the privileges herein granted to the said carrier.

IT IS FURTHER ORDERED, That the transportation service to be performed by the said carrier in interstate or foreign commerce shall be as specified below:

REGULAR ROUTES:

General commodities, except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M. C. C. 467, commodities in bulk commodities requiring special equipment, and those injurious or contaminating to other lading.

Between Quincy, Ill., and Shelbyville, Mo.:

From Quincy over U. S. Highway 24 to junction Missouri Highway 6, thence over Missouri Highway 6 to Edina, Mo., and thence over Missouri Highway 15 to Shelbyville, and return over the same route.

Service is authorized to and from all intermediate points; and the off-route points of Maywood, Monticello and Leonard, Mo.

Such merchandise as is dealt in by wholesale grocery business houses, in truckload lots,

From Quincy, Ill., to Moberly, Mo., as follows:

From Quincy over U. S. Highway 24 to Moberly.

From Quincy over U. S. Highway 24 to junction U. S. Highway 61, thence over U. S. Highway 61 to Hannibal, Mo., thence over U. S. Highway 36
[fol. 2605] to Monroe City, Mo., and thence over U. S. Highway 24 to Moberly.

Return, with no transportation for compensation, over these routes to Quincy.

Service is authorized to and from the intermediate point of Hannibal, Mo.

Livestock,

From Grand Island, Nebr., to Omaha, Nebr.:

From Grand Island over U. S. Highway 30 to junction U. S. Highway 275, thence over U. S. Highway 275 to Omaha.

Return, with no transportation for compensation, over the same route to Omaha.

Service is not authorized to or from intermediate points.

From Chariton, Iowa, to St. Louis, Mo.:

From Chariton over U. S. Highway 34 to Mount Pleasant, Iowa, thence over U. S. Highway 218

to junction U. S. Highway 61, thence over U. S. Highway 61 to Keokuk, Iowa, thence across the Mississippi River to junction Illinois Highway 10, thence over Illinois Highway 10 to junction U. S. Highway 67, and thence over U. S. Highway 67 to St. Louis.

Return, with no transportation for compensation, over the same route to Chariton.

Service is not authorized to or from intermediate points.

Between Chariton, Iowa, and Kansas City, Mo.:

From Chariton over U. S. Highway 34 to junction U. S. Highway 71, thence over U. S. Highway 71 to Kansas City, and return over the same route.

Service is authorized to and from the intermediate point of Kansas City, Kans.; and the off-route point of St. Joseph, Mo.

Between Bloomfield, Iowa, and Chicago, Peoria, and East St. Louis, Ill., as follows:

From Bloomfield over U. S. Highway 63 to Ottumwa, Iowa, thence over U. S. Highway 34 to Chicago.

From Bloomfield over Iowa Highway 2 to junction U. S. Highway 61, thence over U. S. Highway 61 to Burlington, Iowa, thence over U. S. Highway 34 to junction Illinois Highway 116, and thence over Illinois Highway 116 to Peoria.

From Bloomfield over Iowa Highway 2 to junction U. S. Highway 61, thence over U. S. Highway 61 to Fort Madison, Iowa, thence across the Mississippi River to Niota, Ill., thence over
[fol. 2606] Illinois Highway 9 to junction U. S. Highway 67, and thence over U. S. Highway 67 to East St. Louis.

Return over these routes to Bloomfield.

Service is authorized to and from intermediate and off-route points within 15 miles of Bloomfield.

Binder twine.

From Peoria, Ill., to Chariton, Iowa:

From Peoria over Illinois Highway 116 to junction U. S. Highway 34, thence over U. S. Highway 34 to Chariton.

Return, with no transportation for compensation, over the same route to Peoria.

Service is not authorized to or from intermediate points.

Livestock and *feed,*

Between Chariton, Iowa, and Omaha, Nebr.:

From Chariton over U. S. Highway 34 to Glenwood, Iowa, thence over U. S. Highway 275 to Omaha, and return over the same route.

Service is not authorized to or from intermediate points.

Between Chariton, Iowa, and Chicago, Ill., as follows:

Livestock and *wool,*

From Chariton over U. S. Highway 34 to Mount Pleasant, Iowa, thence over U. S. Highway 218 to junction Iowa Highway 92, thence over Iowa Highway 92 to junction U. S. Highway 61, thence over U. S. Highway 61 to Davenport, Iowa, thence over Illinois Highway 92 via Silvis, Ill., to junction U. S. Highway 34, thence over U. S. Highway 34 to Oswego, Ill., thence over Illinois Highway 31 to Aurora, Ill., thence over Illinois Highway 65 to junction U. S. Highway 34, and thence over U. S. Highway 34 to Chicago.

Service is authorized from intermediate and off-route points within 30 miles of Chariton, restricted to pick-up only.

Agricultural machinery and *feed*,

From Chicago over the above-specified route to Chariton.

Service is authorized to the intermediate and off-route points within 30 miles of Chariton, restricted to delivery only; and from the off-route point of Moline, Ill., restricted to pick-up of agricultural machinery.

[fol. 2607] IRREGULAR ROUTES:

Emigrant movables,

Between points and places in that part of Iowa on and south of Iowa Highway 150 from Davenport to Cedar Rapids, on and south of Iowa Highway 64 from Cedar Rapids to the western boundary of Dallas County, and east of the western boundaries of Dallas, Madison, Union and Ringgold Counties, Iowa, on the one hand, and, on the other, points and places in Nebraska, Kansas, Missouri, Illinois, Wisconsin, Minnesota and South Dakota, traversing North Dakota for operating convenience only.

Machinery and farm equipment and *parts* thereof,

From Milwaukee, Wis., and Canton, Chicago, East Moline, Rock Falls, Rock Island and Sandwich, Ill., to points and places in that part of Iowa described above.

Binder twine,

From Chicago, Ill., to points and places in that part of Iowa described above.

Livestock,

Between points and places in that part of Iowa described above, on the one hand, and, on the other, Omaha, Nebr., points and places in that part of Missouri on and south of U. S. Highway

50, and points and places in Illinois, Indiana, Michigan and Wisconsin.

From Albia, Iowa, and points and places within 25 miles thereof, to Chicago, Peoria, and Galesburg, Ill.

From Ames, Colfax, Grinnell, Centerville, Corydon, Des Moines and Oskaloosa, Iowa, and points and places within 25 miles of Oskaloosa, to Omaha, Nebr., and Chicago, Galesburg and Peoria, Ill.

From Chariton, Iowa, and points and places in Iowa within 150 miles of Chariton, to points and places in Missouri.

Livestock and *agricultural commodities,*

Between Eddyville, Iowa, points and places in Monroe and Appanoose Counties, Iowa, those in that part of Mahaska County, Iowa, south and west of the Des Moines River, and those in that part of Wapello County, Iowa, on the west of a line beginning at the Wapello-Davis County line and extending along U. S. Highway 63 to Ottumwa, thence along Iowa Highway 15 to Eddyville, except Ottumwa, on the one hand, and, on the other, Chicago, Galesburg, Peoria and National Stock Yards, Ill., and Kansas City and St. Joseph, Mo.

Horses,

From Albia, Iowa, to Knox City, Mo.

[fol. 2608] *Feederstock,*

From Chicago, Ill., to Oskaloosa, Iowa, and points and places within 25 miles of Oskaloosa.

Hides and *rendering plant products,*

From Albia, Iowa, to points and places in the CHICAGO, ILL., COMMERCIAL ZONE, as defined by the Commission in 1 M.C.C. 673.

Chicken and pig brooders, poultry nests, poultry and livestock feeders, water tanks, tank heaters, and *agricultural and poultry hand utensils,*

From Albia, Iowa, to points and places in Missouri, Illinois, Indiana, Wisconsin, Minnesota, South Dakota, Nebraska, Kansas, Colorado and Oklahoma.

Seed,

From Chicago and Quincy, Ill., to Keosauqua, Bloomfield, Chariton and Corydon, Iowa, and points and places in Monroe and Appanoose Counties, Iowa.

Feed and *seed,*

From Chicago, Ill., and Kansas City, Mo., to Eddyville, Iowa, points and places in Monroe and Appanoose Counties, Iowa, and those in the portions of Mahaska and Wapello Counties, Iowa, specified above.

Feed,

From Chicago and Peoria, Ill., and Kansas City and St. Joseph, Mo., to Albia, Iowa, and points and places within 25 miles of Albia.

Soy beans,

From Albia, Iowa, to St. Joseph, Mo.

Farm implements,

From Chicago, Peoria and Rock Island, Ill., to Albia, Corydon, Centerville, Moravia and Chariton, Iowa.

Twine and *farm supplies,*

From Chicago, Ill., and St. Louis, Mo., to points and places in Monroe and Appanoose Counties, Iowa.

Coal,

From points and places in Peoria, Tazewell, Knox and Rock Island Counties, Ill., to Albia, Iowa.

Hardware and *agricultural machinery and parts thereof,*

From Chicago, Rock Island, Moline, East Moline, Silvis and Canton, Ill., St. Paul and Minneapolis, Minn., Kansas City and St. Louis, Mo., and Kansas City, Kans., to Eddyville, Iowa, points and places [fol. 2609] in Monroe, Lucas and Appanoose Counties, Iowa, and those in that part of Wapello County, Iowa, specified above.

Petroleum products, in containers,

From Chicago, Rock Island, Moline and Keithsburg, Ill., to Oskaloosa, Iowa.

Bakery supplies and equipment,

From Chicago and Moline, Ill., to Oskaloosa, Iowa.

Peaches,

From Koshkonong, Mo., and points and places within ten miles thereof, to Albia, Iowa, and points and places within 25 miles of Albia.

Watermelons,

From Monmouth, Ill., and points and places within ten miles thereof, and those in Missouri on and south of U. S. Highway 50 to Albia, Iowa, and points and places within 25 miles of Albia.

Malt beverages,

From Minneapolis, Minn., to Albia, Iowa.

From Chicago and Peoria, Ill., to Albia, Chariton and Oskaloosa, Iowa.

Empty malt beverage containers,

From Albia, Chariton and Oskaloosa, Iowa, to Chicago and Peoria, Ill.

From Albia, Iowa, to Minneapolis, Minn.

Fencing,

From Fort Madison, Iowa, to points and places in Illinois and Nebraska.

Iron and steel products,

From points and places in the CHICAGO, ILL., COMMERCIAL ZONE, supra, to Omaha, Nebr., and points and places in that part of southeastern Iowa on or enclosed by U. S. Highway 6 from the Iowa-Illinois State line to junction U. S. Highway 169, and thence over U. S. Highway 169 to the Iowa-Missouri State line.

Castings and *valve parts,*

From Chicago, Ill., to Oskaloosa, Iowa.

Materials and supplies used in the manufacture of batteries and ignition systems.

From points and places in the CHICAGO, ILL., COMMERCIAL ZONE, supra, to Corydon, Iowa.

[fol. 2610] *Junk,*

From Albia and Ottumwa, Iowa, to Chicago, Ill.

Washing machines and *parts* therefor, and *materials* used in the manufacture thereof,

From Fairfield, Iowa, to Alliance, Galion and Warren, Ohio.

Washing machine parts and *materials* used in the manufacture of washing machines and *parts* therefor,

From Alliance, Galion and Warren, Ohio, to Fairfield, Iowa.

Furniture,

From Chicago, Ill., to Ottumwa, Iowa.

New and old furniture, and *commodities* such as are dealt in by retail furniture stores,

From Chicago, Ill., to Albia, Iowa.

Return, with no transportation for compensation except as otherwise authorized, to the above-specified origin points.

Household goods as defined in *Practices of Motor Common Carriers of Household Goods,* 17 M.C.C. 467,

Between points and places in Monroe County, Iowa, on the one hand, and, on the other, points and places in Nebraska, Michigan and Minnesota.

Between points and places in Monroe County, Iowa, on the one hand, and, on the other, points and places in Wisconsin, Illinois, Missouri and Kansas.

Between Albia, Iowa, and points and places within 25 miles thereof, on the one hand, and, on the other, points and places in Illinois, Iowa, and Missouri.

Any repetition in the statement of the authority granted herein shall not be construed as conferring more than a single operating right.

IT IS FURTHER ORDERED, and is made a condition of this certificate that the holder thereof shall render reasonably continuous and adequate service to the public in pursuance of the authority herein granted, and that failure so to do shall constitute sufficient grounds for suspension, change, or revocation of this certificate.

[fol. 2611] And It Is Further Ordered, That this certificate shall supersede the certificates issued to the respective predecessors-in-interest under Docket Nos. MC–72576 on June 13, 1947, MC 72576 Sub 1 on July 24, 1942, MC 72576 Sub 4 on November 6, 1947, MC 72576 Sub 5 on November 6, 1947, MC 72576 Sub 6 on December 7, 1948, MC 10354 on May 20, 1941, and MC 19135 on January 29, 1941, in their entirety, and that issued to the predecessor-in-interest under Docket No. MC 63542 on July 11, 1942, with respect to the operating rights authorized herein; and said certificates are hereby canceled to that extent.

By the Commission, division 5.

W. P. Bartel,
Secretary

(Seal)

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* This certificate embraces (1) the operating rights in Certificates Nos. MC 72576, MC 72576 Sub 1, MC 72576 Sub 4, MC 72576 Sub 5 and MC 72576 Sub 6, acquired by the above-named carrier pursuant to MC-FC 50533 and assigned Docket Nos. MC 111154, MC 111154 Sub 1, MC 111154 Sub 2, MC 111154 Sub 3, and MC 111154 Sub 4, Respectively, (2) a portion of the operating rights in Certificate No. MC 63542, which certificate was transferred in its entirety pursuant to MC-FC 23748, and said portion thereof in turn acquired by the above-named carrier pursuant to successive transfers in MC-FC 25260 (assigned Docket No. MC 72576 Sub 8) and MC-FC 50533, assigned Docket No. MC 111154 Sub 5; (3) the operating rights in Certificate No. MC 10354, acquired by the above-named carrier pursuant to successive transfers in MC-FC 25474 (assigned Docket No. MC 72576 Sub 9) and MC-FC 50533, assigned Docket No. MC 111154 Sub 6; and (4) the operating rights in Certificate No. MC 19135, acquired by the above-named carrier pursuant to successive transfers in MC-FC 25327 (assigned Docket No. MC 72576 Sub 10) and MC-FC 50533, assigned Docket No. MC 111154 Sub 7.

[fol. 2613-A] EXHIBIT No. 53

Phone Iowa City 9696 304 S. Gilbert Street

MAHER BROS. TRANSFER

D. H. MAHER, Owner

Iowa City, Iowa

TONNAGE ON MOTOR FREIGHT JAN. 1 TO APRIL 1—1951

	Inbound	*Outbound*	*Total Tonnage*
JAN.	415,287	149,830	565,117
FEB.	402,618	121,403	524,021
MAR.	475,913	164,120	640,033
	1,293,818	435,353	1,729,171

TONNAGE ON MOTOR FREIGHT JAN. 1 TO APRIL 1—1952

	Inbound	*Outbound*	*Total Tonnage*
JAN.	355,730	181,974	537,704
FEB.	355,953	144,680	500,633
MAR.	400,977	141,015	541,992
	1,130,043	467,669	1,597,712

MAHER BROS. TRANSFER CO.

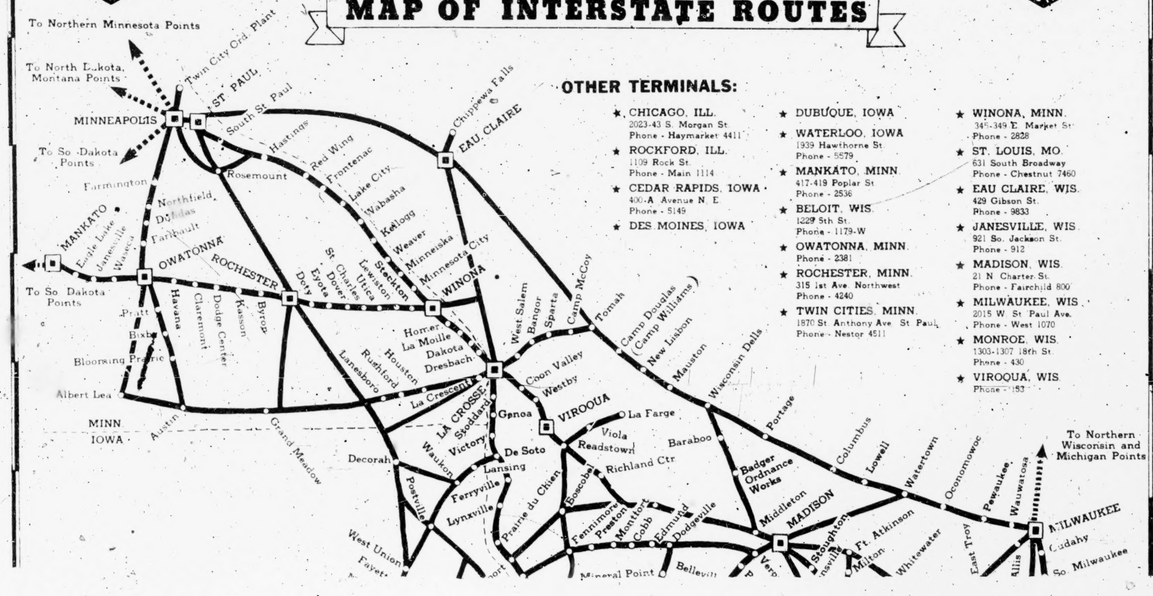
By R. D. BOTHELL

R. D. Bothell, Off. Mgr.

GATEWAY CITY TRANSFER CO. INC.

GENERAL OFFICES
2130-2150 South Avenue - - La Crosse, Wis.
Phone 3652

MAP OF INTERSTATE ROUTES



OTHER TERMINALS:

- ★ CHICAGO, ILL. 2023-43 S. Morgan St. Phone - Haymarket 4411
- ★ ROCKFORD, ILL. 1109 Rock St. Phone - Main 1114
- ★ CEDAR RAPIDS, IOWA 400-A Avenue N. E. Phone - 5149
- ★ DES MOINES, IOWA
- ★ DUBUQUE, IOWA
- ★ WATERLOO, IOWA 1939 Hawthorne St. Phone - 5579
- ★ MANKATO, MINN. 417-419 Poplar St. Phone - 2536
- ★ BELOIT, WIS. 1229 5th St. Phone - 1179-W
- ★ OWATONNA, MINN. Phone - 2381
- ★ ROCHESTER, MINN. 315 1st Ave. Northwest Phone - 4240
- ★ TWIN CITIES, MINN. 1870 St. Anthony Ave. St. Paul, Phone - Nestor 4511
- ★ WINONA, MINN. 347-349 E. Market St. Phone - 2828
- ★ ST. LOUIS, MO. 631 South Broadway Phone - Chestnut 7460
- ★ EAU CLAIRE, WIS. 429 Gibson St. Phone - 9833
- ★ JANESVILLE, WIS. 921 So. Jackson St. Phone - 912
- ★ MADISON, WIS. 21 N. Charter St. Phone - Fairchild 800
- ★ MILWAUKEE, WIS. 2015 W. St. Paul Ave. Phone - West 1070
- ★ MONROE, WIS. 1303-1307 18th St. Phone - 430
- ★ VIROQUA, WIS. Phone - 153

AMPLE INSURANCE COVERAGE

CARGO INSURANCE
INSURANCE COMPANY OF NORTH AMERICA

LIABILITY AND PROPERTY DAMAGE INSURANCE
CONTINENTAL CASUALTY COMPANY, CHICAGO, ILL.

REFERENCE
DUN AND BRADSTREET

PARTICIPATING IN TARIFFS OF THE FOLLOWING BUREAUS:
CENTRAL STATES MOTOR FREIGHT BUREAU, INC.
EASTERN-CENTRAL MOTOR CARRIERS ASSOCIATION
MIDDLEWEST MOTOR FREIGHT BUREAU
SOUTHERN MOTOR CARRIERS RATE CONFERENCE
CENTRAL AND SOUTHERN MOTOR FREIGHT TARIFF ASSOC. INC.

SHIP VIA GATEWAY SYSTEM

51 YEARS OF SERVICE
1896 - 1947



OCT. 1946

SEE OTHER SIDE FOR ALPHABETICAL LIST OF POINTS SERVED INTERSTATE

(Fr. 2614) (p. 2007)

GATEWAY
CITY TRANSFER CO. INC.

SHIP VIA GATEWAY SYSTEM

GATEWAY
CITY TRANSFER CO. INC.

LIST OF POINTS SERVED INTERSTATE

ILLINOIS

Algonquin
Alton
Apple River
Arlington Heights
Barrington
Barry
Bartlett
Belvidere
Bloomingdale
Buena Vista
Carpentersville
Carrollton
Cary
Cedarsville
Chicago
*Chicago Commercial Zone
Chicago Heights
Crystal Lake
Dakota
Davis
Deerfield
Detroit
Dundee
Durand
East Dubuque
East St. Louis
Elgin
Elizabeth
Elmhurst
Elwood Ordnance Loading Plant
Fieldon
Fort Sheridan
Fox River Grove
Freeport
Galena
Garden Prairie
Glencoe
Grayslake
Great Lakes Naval Training Station
Halfday
Hardin
Harmony
Harrison
Harvard
Highland Park
Highwood
Hinsdale
Jacksonville
Jerseyville
Joliet
Kampsville
Kenilworth
Kinderhook
Lake Forest
Lena
Libertyville
Lima
Manchester
Marcelline
Marengo
McHenry
Mt. Prospect
Murrayville
Northbrook
No. Chicago
Oneco
Orangeville
Palatine
Payson
Pearl
Pittsfield
Quincy
Red Oak
Richmond
Riggston
Ringwood
Rock City
Rockford
Rockford (Camp Grant)
Roodhouse
S. Jacksonville
Scales Mound
So. Beloit
Starks
Stockton
Udina
Ursa
Villa Park
Warren
Waukegan
Wempletown
Wheaton
White Hall
Wilmette
Winchester
Winslow
Winnetka
Winthrop Harbor
Woodbine
Woodriver
Woodstock
Woodson
Zion

*POINTS IN THE CHICAGO COMMERCIAL ZONE

Alsip
Bellwood
Berkeley
Berwyn
Blue Island
Broadview
Brookfield
Burnham
Calumet City
Chicago
Chicago Ridge
Cicero
Crestwood
Des Plaines
Dixmoor
Dolton
East Hazelcrest
Elmwood Park
Evanston
Evergreen Park
Forest Park
Forest View
Franklin Park
Golf
Harvey
Hazel Crest
Hillside
Hinsdale
Hodgkins
Homewood
Justice
La Grange
La Grange Park
Lansing
Lincolnwood
Maywood
Melrose Park
Midlothian
Morton Grove
Niles
Niles Center
No. Riverside
Oak Lawn
Oak Park
Park Ridge
Phoenix
Posen
Riverdale
River Forest
River Grove
Riverside
Robbins
Schiller Park
South Holland
Spring Forest
Stickney
Summit
Thornton
Tinley Park
Westchester
Western Springs
Worth

INDIANA

East Chicago
Gary
Hammond
Whiting

IOWA

Ackley
Alden
Altoona
Aplington
Austinville
Batavia
Blairsburg
Bryantsburg
Cedar Falls
Cedar Rapids
Center Point
Charleston
Church
Clermont
Colesburg
Colfax
Decorah
Des Moines
Des Moines Ord. Plant
Donnellson
Dubuque
Duncombe
Durango
Edgewood
Elkader
Fairfield
Fairmont
Fayette
Fort Des Moines
Fort Dodge
Fremont
Froelich
Grinnell
Hazelton
Holy Cross
Hudson
Independence
Iowa City
Iowa Falls
Keokuk
Lansing
Luana
Luxemburg
Maynard
Monona
Monroe
Mooar
Mt. Clara
Mt. Pleasant
New Boston
Newton
Oelwein
Osborne
Oskaloosa
Ottumwa
Parkersburg
Pella
Postville
Rickardsville
Sheridan
Strawberry Point
Tama
Toledo
Traer
Waterloo
Waukon
Webster City
West Des Moines
West Union
Williams
Wood

MINNESOTA

Albert Lea
Austin
Bixby
Blooming Prairie
Byron
Chester
Claremont
Clinton Falls
Dakota
Dodge Center
Dresbach
Dundas
Eagle Lake
Faribault
Farmington
Fort Snelling
Fridley (Northern Pump. Navy Ordnance Plant)
Frontenac
Grand Meadow
Hastings
Homer
Hopkins
Houston
Invergrove
Janesville
Kasson
Kellogg
La Crescent
Lake City
La Moille
Lanesboro
Lewiston
Mankato
Medford
Miesville
Minneapolis
Minnieiska
Minnesota City
New Brighton (Twin City Ordnance Plant
Northern Pump (Navy-Ord. Plant, Fridley)
Northfield
Owatonna
Peterson
Pratt
Reads
Red Wing
Rochester
Rushford
St. Charles
St. Paul
Smiths Mill
South St. Paul
Twin City Ord. Plant
Wabasha
Waseca
Waterford
Weaver
Whalen
Winona

MISSOURI

Alexandria
Auburn
Bowling Green
Canton
Cyrene
Edgewood
Eolia
Frankford
Gilmore
Hannibal
La Grange
McCune
New London
Oakwood
Palmyra
Pattonville
St. Charles
St. Louis
St. Peters
Taylor
Troy
Wentzville

WISCONSIN

Avalon
Badger Ordnance Works (Merrimac)
Bangor
Baraboo
Basco
Belleville
Belmont
Beloit
Benton
Bloomington
Boaz
Boscobel
Bosstown
Bridgeport
Brodhead
Browntown
Camp Douglas
Camp McCoy
Camp Williams
Chippewa Falls
Clarno
Clinton
Cobb
Columbus
Coon Valley
Cuba City
Cudahy
Darien
Delavan
Dodgeville
East Troy
Eau Claire
Edmund
Elkhorn
Evansville
Fennimore
Fontana
Footville
Ft. Atkinson
Gotham
Gratiot
Hazel Green
Janesville
Juda
Kenosha
La Crosse
La Farge
Lake Delton
Lake Geneva
Lancaster
Lima Center
Madison
Mauston
Merrimac (Badger Ordnance Plant)
Middleton
Millard
Milton
Milton Junction
Milwaukee
Mineral Point
Monroe
Montfort
Monticello
New Glarus
New Lisbon
Oconomowoc
Onalaska
Orfordville
Paoli
Patch Grove
Platteville
Portage
Prairie du Chien
Racine
Readstown
Richland Center
Richmond
Sharon
Shopiere
Shorewood
Shullsburg
Soldiers Grove
So. Milwaukee
South Wayne
Sparta
Sylvan
Tomah
Troy
Twin Grove
Verona
Viola
Viroqua
Walworth
Watertown
Wauwatosa
West Allis
Westby
West Salem
Whitewater
Williams Bay
Wisconsin Dells
Zenda

FOR DETAILS OF INTRA-STATE SERVICE, RATES, SCHEDULES AND OTHER INFORMATION, PHONE THE NEAREST GATEWAY TERMINAL

GATEWAY CITY TRANSFER CO. INC.

2615

By Mr. Nolan:

Q. In what county in Iowa are those trucks and tractors licensed?

A. Pottawattamie.

Q. Then the other 28 tractors that you referred to, by whom are they owned?

A. They are leased operators.

Q. By various people? They are owned by various owners; is that right?

A. Yes.

[fol. 2623] Q. Do you have leases just for trips with those operators, or do you have extended term leases?

A. Trip-lease basis.

Q. They are operators whom you may contact when you want something hauled; is that right?

A. They are always available at this end for our use.

Q. Well, I am saying, you contact them just on a trip basis; is that correct?

A. That is right.

Exam. Carpenter: Known as owner-operators?

The Witness: They are owner-operators.

By Mr. Nolan:

Q. You use those 28 tractors only on a trip basis on call and emand by your company; isn't that correct?

A. Yes.

Q. How many trailers are owned and licensed in the name of the Iowa-Nebraska Transportation Company?

A. Just one minute, please. Twenty-five.

Q. And where are they licensed?

A. In the State of Iowa.

Q. And in Pottawattamie County?

A. Yes sir.

Q. Who owns the other 35 trailer units that you referred to that your company owned?

A. They are privately owned by owner-operators, and we lease them from them.

Q. On a trip basis?

A. Yes.

By Mr. Nolan:

Q. I notice under your certificate you have authority to operate between Marengo, Iowa, and Belle Plaine, Iowa, as follows:

"From Marengo over Iowa Highway 212 to Belle Plaine and return over the same route."

Now, state whether or not your company operates over that route regularly and daily?

Mr. Cohn: Objection, as being a route not involved within the issues in this proceeding.

Exam. Carpenter: It goes into Marengo, does it not?

Mr. Nolan: Yes, sir.

Exam. Carpenter: Objection overruled.

The Witness: We operate into Marengo every day.

Mr. Nolan: I move to strike the answer as not responsive to the question.

Exam. Carpenter: The answer may be stricken.

The Witness: What is the question, please?

Exam. Carpenter: Read the question, please.

(Question read.)

[fol. 2631] The Witness: Our peddle truck from Des Moines peddles shipments when it leaves Des Moines in the morning, for the East, peddles shipments to Marengo and Belle Plaine if we have them.

By Mr. Nolan:

Q. Does it traverse the route I just described, regularly and daily?

A. Yes, it travels this route daily, and delivers the shipments we have.

Q. And state whether or not service is performed to and from Marengo by the use of the three highways which I have described, namely over U. S. Highway No. 30, over U. S. Highway 6, and over the combination of U. S. Highway 34, U. S. Highway 218, and U. S. Highway 6, from and between Omaha and Chicago?

A. I don't believe would be practical to travel Highway

[fol. 2616] EXHIBIT No. 55

Received in evidence as a late filed exhibit
T. K. Carpenter Examiner
6/12/52
Page 2272 of transcript

BEFORE THE INTERSTATE COMMERCE COMMISSION

Docket #MC-29130 (Sub. 69)

IN THE MATTER OF THE APPLICATION OF THE ROCK ISLAND MOTOR TRANSIT COMPANY—DES MOINES, IOWA
Motor Carrier of Freight-Extension

Late filed Exhibits Nos. —— to ——

Transcript of Testimony

of

CARL REED, Chairman of Iowa State Commerce Commission

E. S. PETERSEN, President of Iowa-Nebraska Transportation Company

BIRNEY BAKER, President of Des Moines Transportation Company

FRED MILLETT, Assistant Traffic Agent, Rock Island Motor Transit Company

from hearing on Docket MC-29130 (Sub. 69) T. A.

A. B. HOWLAND, 501 Bankers Trust Building, Des Moines, Iowa, Attorney for Applicant.

[fol. 2617] CARL REED, Chairman—Iowa State Commerce Commission (R. 1098-1101) testified:

By Mr. Nolan:

Q. Will you state your name, place of residence, and occupation, please?

A. My name is Carl W. Reed. I am temporarily residing in Des Moines. I am a member of the Iowa State Commerce Commission. My permanent home is at Cresco, in this state.

[fol. 2624] Q. And by various and sundry truck-owner-operators?

A. Yes.

Q. So then in reality, your company owns and has licensed in its own name, eight pickup trucks, 22 tractors and 25 trailers?

A. That is true, to the best of my knowledge, without my records and books here.

Q. Could you furnish us a certified list of your registration on those trucks owned by your company? Would you be willing to do that?

A. Well, I would be willing to do it. I don't see any sense to it. They are on the records in Pottawattamie County, and you can go and get them.

(R. 1224)

Q. Under the designated authority of your company's certificate, MC-47619, I notice that you have the following specified route authority, under the caption, "Between Chicago, Illinois, Omaha, Nebraska," as follows:

"From Chicago over alternate U. S. Highway 30 to junction U. S. Highway 30, thence over U. S. Highway 30 to Denison, Iowa, thence over Iowa Highway 141 to Sioux City, Iowa, and thence over U. S. Highway 75 to Omaha (also from Denison over U. S. Highway 30 to Missouri Valley, Iowa, thence over U. S. Highway 75 to Omaha)."

Now, Mr. Petersen, is it claimed by you as the chief executive of your company that you render a regular daily motor carrier service to all points upon the route which I have just described?

[fol. 2625] A. Our service is offered to all those points.

(R. 1227)

By Mr. Nolan:

Q. Now, Mr. Petersen, referring to your company's certificate, I notice there is a route described as follows, under the caption "Between Chicago, Illinois, and Omaha, Nebraska": "From Chicago over U. S. Highway 34 to junction Illinois Highway 92, thence over Illinois Highway 92 to junction Illinois Highway 82, thence over Illinois Highway 82 to Geneseo, Illinois (also from Chicago over U. S. High-

30 and 34 to run shipments to Marengo and Belle Plaine. They are all handled from our Des Moines terminal.

Q. Do you use those routes in performing service to and from Marengo, regularly and daily?

A. I wouldn't think so.

Q. Well, do you or don't you? Answer my question.

Exam. Carpenter: Do you know? If you don't know, say you don't know.

The Witness: I don't know.

By Mr. Nolan:

Q. I notice in your certificate that the following route is described between Marshalltown and Des Moines, Iowa:

"From Marshalltown over Iowa Highway 330 to junction Iowa Highway 64, then over Iowa Highway 64 to Des Moines and return over the same route."

[fol. 2632] State whether or not your company operates a regular daily service over that route.

Mr. Cohn: Objection, as not being a route involved in this application.

Exam. Carpenter: You may have a continuing objection to those particular types of questions, Mr. Cohn. The objection is overruled. Go ahead.

The Witness: Do you want me to answer that?

Exam. Carpenter: Yes, sir?

The Witness: We operate a peddle truck from Des Moines every day, out over 64 to Marshalltown.

By Mr. Nolan:

Q. Then where to?

A. On up to Highway 30.

Q. And return over the same route?

A. Yes.

Q. State whether or not you use in transporting freight to and from Marshalltown, to and from Omaha, Nebraska, and to and from Chicago, Illinois, by the use of the Highway which I have just described.

A. Yes.

Q. You are now the chairman of the Iowa State Commerce Commission, are you not?

A. I am this year, yes, sir.

Q. That is a rotating office among the members of the Commission, is that right?

A. That is right.

Q. How long have you been a member of the Iowa Commerce Commission, Judge?

A. Since the second day of January, 1941.

Q. And you have been a practicing lawyer and also a judge of the District Court here in Iowa, have you not?

A. That is correct.

Q. And a member of the State legislature years ago?

A. Back in the early twenties.

Q. Now, Judge, the general duties of the Iowa Commerce Commission, is dealing with the shipping problems of the people of Iowa, is that correct?

A. Yes.

Q. The Iowa State Commerce Commission is the statutory body created by the legislature to look after the ship-
[fol. 2618] ping interests and needs of the people of the State of Iowa, is that correct?

A. That is right.

Q. Now, the Iowa State Commerce Commission has intervened in support of the instant application, and would you state the position of the Commission in this proceeding, Judge?

A. The Commission is primarily interested in these matters in seeing that service is furnished to the various communities. We are interested in this particular case because of the service that is needed in the communities along the route covered by the Rock Island Motor Transit application.

That truckline has been furnishing service to these communities under authority of the Commission, and also some interstate authority, for several years, since before I came on the Commission.

Many of these towns have no other truck service whatever, except that furnished by the Rock Island Motor Transit. Some of them have no rail service, either, and it is because of the needs of the community for the kind of

way 34 to junction U. S. Highway 6, thence over U. S. Highway 6 to Geneseo) thence over U. S. Highway 6 via Iowa City, Iowa, to Atlantic, Iowa, thence over Iowa Highway 63 to Avoca, Iowa, thence over Iowa Highway 64 to Council Bluffs, Iowa, thence over the Missouri River"——

Exam. Carpenter: That is "thence across."

By Mr. Nolan:

Q. —"thence across the Missouri River to Omaha (also from Atlantic over U. S. Highway 6 to Omaha)."

Now, that is the route that you claim that you operate daily; is that right?

A. Yes.

Q. And you give peddler service in both directions over that route?

A. Yes.

(R. 1235)

Q. Do you operate into Cedar Rapids daily?

A. Yes, from Chicago, and also from Omaha.

Q. Over what route?

A. From Chicago, over our regular route, to Cedar Rapids.

[fol. 2626] Q. That isn't what I asked you. Over what route do you operate from Chicago to Cedar Rapids and from Omaha to Cedar Rapids, which you claim to be a daily operation?

A. We operate over our regular routes, is the only thing I can tell you.

Q. Well, what——

Exam. Carpenter: Do you mean all three of the routes that have been mentioned by Mr. Nolan? That is, you have a route authority north of Highway 6, and one south of Highway 6, have you not?

The Witness: What is your question again?

Exam. Carpenter: Read the question.

(Question read.)

The Witness: The answer is yes.

Q. State whether or not you use the highway which I have just described between Marshalltown, Iowa, and Des Moines, Iowa, in transporting freight from Chicago, Illinois and points in Illinois, to Des Moines, Iowa?

A. Yes.

Q. Is that a regular daily scheduled operation?

A. When the traffic warrants.

[fol. 2633] Q. Well, is it operated regularly and daily?

A. That I couldn't answer.

Q. What would you say would be the frequency of that operation?

A. I wouldn't know without my records.

Q. What is your best judgment on it?

A. I wouldn't want to make a guess.

Q. State whether or not you would use the highway which I just described between Marshalltown, Iowa, and Des Moines, Iowa, in the transporting of freight between Marshalltown, to and from Omaha, Nebraska?

Mr. Cohn: Objection, as not being involved in this application. The service between Marshalltown and Omaha, Nebraska, is not involved in this application.

Exam. Carpenter: I take it you said to Des Moines?

Mr. Nolan: Through Des Moines.

Exam. Carpenter: Over Highway 6?

Mr. Nolan: That is right.

Exam. Carpenter: Objection overruled.

The Witness: The operation over this Highway 64 is from our Des Moines terminal on our peddle truck. It goes up there every day.

By Mr. Nolan:

Q. So then there is a regular scheduled daily operation between Marshalltown, Iowa, and Omaha, Nebraska, by the use of the Highway which I have just described between Des Moines and Marshalltown, is that right?

A. We have a regularly scheduled operation from Omaha into Des Moines and that freight is broken at Des Moines [fol. 2634] and put on this peddle truck that leaves Des Moines that goes to Marshalltown the next day.

By Mr. Nolan:

Q. Well now, Mr. Petersen, do you operate over U. S. Highway No. 30 between Chicago and Cedar Rapids, in a daily operation?

A. Yes.

Q. Do you operate over U. S. Highway 30 between Omaha and Cedar Rapids daily?

A. Yes.

Q. And that is a daily scheduled operation, is it not?

A. Yes.

Q. And actually operated by your company daily, except Sundays and holidays?

A. Yes, except Saturdays.

Q. And you give a local service between Chicago and Cedar Rapids?

[fol. 2627] A. Yes.

Q. Between Cedar Rapids and Omaha?

A. Yes.

Q. For traffic moving in both directions between Chicago and Cedar Rapids, and Cedar Rapids and Omaha?

A. Yes.

Q. Do you serve intermediate points between Chicago and Cedar Rapids and Cedar Rapids and Omaha in both directions on this daily scheduled operation?

A. When the shipments are offered to us.

Q. All right. Now, do you serve Cedar Rapids through the use of U. S. Highway No. 6 on a daily basis from Chicago and from Omaha?

A. Yes.

Q. And is that a service in both directions?

A. Yes.

Q. And does that include service to intermediate points in connection with the use of Highway No. 6 between Chicago and Cedar Rapids, and Cedar Rapids and Omaha?

A. Yes.

Q. Do you serve Cedar Rapids by the use of U. S. Highway No. 34 and 218, and the other highways connected with your operations on U. S. Highway No. 34?

A. What was that question again, please?

Exam. Carpenter: Read the question, please.

(Question read.)

Q. State whether or not the highway which I have described in your certificate between Marshalltown, Iowa and Des Moines, Iowa is used by your company in its operations between Des Moines, Iowa and Chicago, Illinois?

A. I answered that question once. We do use it.

Q. And is that on a through schedule operation?

A. Occasionally.

Q. In other words, do you use that highway which I have described between Des Moines, Iowa and Marshalltown, Iowa, in routing a truck from Des Moines, Iowa to Chicago, Illinois?

A. Yes.

Q. And in a return movement?

A. Yes.

Q. And how frequently would you say that operation would be conducted?

A. I would not want to make a guess.

Q. Now I notee that you have in your certificate a route between Avoca, Iowa and Des Moines, Iowa, as follows:

"From Avoca over Highway 64 to Des Moines and return over the same route."

State whether or not that highway is used regularly.

A. It is

Q. And daily?

A. Yes, I would say practically daily.

Q. And is a service provided to the intermediate points on that route?

[fol. 2635] A. Yes.

Q. On a daily scheduled basis?

A. Yes.

Q. State whether or not the highway which I have just described between Avoca, Iowa, and Des Moines, Iowa is used for the transportation of shipments with your company's equipment between Chicago, Illinois and Avoca, Iowa?

A. It is.

Q. And to and from the intermediate points from Chicago, Illinois to and from the intermediate points between Avoca, Iowa, and Des Moines, Iowa?

A. It is.

service that the Rock Island has been furnishing, and only the Rock Island Motor Transit has been furnishing that we are interested in and supporting this application.

Q. If there is some other carrier that would give comparable service, or was giving comparable service to the Rock Island Motor Transit Company, would your position be different than it is, if there was some other carrier or carriers doing that service?

A. Well, it would be different to this extent. That if some community was getting satisfactory service we would [fol. 2619] not want to disturb that service.

Q. State whether or not in your opinion, if the Rock Island Motor Transit Company's operations were curtailed to the point—I mean if their traffic were curtailed to the point where their operations would have to be lessened or the quality of service diminished, state whether or not, in your opinion, that would create an emergency situation to many of these points presently served by the Rock Island Motor Transit Company.

A. It is my belief that it would. Many of those communities would be able to get no service whatever.

Q. What is the fact as to whether or not the demands of the various communities of the State of Iowa are made known to your commission in regard to the service or lack of service currently?

A. Yes, we have had information along this line from both shippers and commercial clubs in some of the towns.

Q. I mean as a general proposition, where there is a necessity for service, that comes to your attention, does it not, throughout the State, where there is poor service, or where there is no service? Does that come to your attention, other than through the carriers?

A. Oh, yes, yes, It does.

Mr. Nolan: I believe that is all.

Exam. Carpenter: Cross examine, Mr. Cohn?

Mr. Cohn: I don't believe I have any questions.

Mr. Huston: No questions.

Mr. Rice: No questions.

Q. And is that a daily scheduled operation?

A. Yes.

Q. Now, as I understand your testimony, you have a daily scheduled peddle operation between Omaha, and Des Moines, over U. S. Highway No. 6, is that correct?

A. Well, I will qualify that answer. The truck comes to Avoca on Highway 64 and leaves Avoca and Highway 83, and traverses U. S. 6 from Atlantic on to Des Moines.

Q. Is that a daily scheduled operation?

A. Yes, except Saturday.

Q. Does that operation operate in the reverse direction daily?

A. Yes

Q. Service to and from all intermediate points?

A. Yes.

Q. And how many units, how many vehicles are used in [fol. 2636] that operation?

A. One.

Q. You mean that a truck leaves Omaha, peddles that entire route to Des Moines and back again, in the same day?

A. The truck leaves Avoca, and travels to Des Moines, and back to Avoca.

Q. Peddling all the intermediate points that day?

A. Yes.

Q. Then you use another truck from Omaha to Avoca, and return to Omaha, the same day?

A. Yes.

Q. That would be two trucks then used in that operation?

A. Yes, that is right.

Q. Now, do you have any through operations from Omaha to Des Moines, daily?

A. Only the ones spoken of before.

Q. Just the peddle truck?

A. Yes.

Q. You have no overhead operations between Omaha and Des Moines?

A. Only when the traffic warrants.

Q. How frequently would that be?

A. I wouldn't want to—I wouldn't be able to answer that.

The Witness: Do you mean, do we run a truck from Council Bluffs down around 34, up to Cedar Rapids?

[fol. 2628] By Mr. Nolan:

Q. I am asking you if you perform a service in and out of Cedar Rapids in connection with your use of U. S. Highway No. 34, and the other connecting routes in your service from Cedar Rapids to Chicago, and Cedar Rapids to Omaha, irrespective of the physical operation of any particular piece of equipment.

Exam. Carpenter: Go ahead and answer the question if you can.

The Witness: Let me have the question again.

Exam. Carpenter: Read the question.

(Question read.)

Mr. Cohn: Do you understand the question, Mr. Petersen?

The Witness: No, I don't believe I do.

By Mr. Nolan:

Q. Well now, Mr. Petersen, you stated that you operated in and out of Cedar Rapids for the handling of interstate traffic, both from Omaha to Cedar Rapids, and from Chicago to Cedar Rapids, and vice versa, and that you used your routes authorized by the Interstate Commerce Commission in the performance of that service, did you not?

A. Yes, but we would use the shortest route.

Mr. Nolan: I move to strike that answer, "use the shortest routes," as not being responsive.

Mr. Cohn: I think it is responsive.

Exam. Carpenter: The portion of the answer referring to the shortest route is stricken.

By Mr. Nolan:

Q. Mr. Petersen, you told me just before lunch that your company is now serving and has been serving Cedar Rapids, Iowa, to and from Chicago and to and from Omaha on the

[fol. 2620] E. S. PETERSEN, Pres. of Iowa-Nebraska Transportation Company, Inc., Avoca, Iowa (R. 1215 to 1293 inc.) testified:

Q. Now, you testified that you had ten delivery trucks, fifty tractors, and approximately sixty trailers?

A. Yes.

Q. Are those all company-owned units?

A. They are not.

Q. How many company-owned units, licensed in the name of Iowa-Nebraska Transportation Company, does your company have, and can you furnish us a certified list of those vehicles, showing the place where they are registered?

A. The Iowa-Nebraska Corporation owns eight pickup and delivery trucks.

Q. And are those licensed——

Exam. Carpenter: Wait a minute. I don't think that is a complete answer to your question.

By Mr. Nolan:

Q. Let's break it up as we go along. Are those eight pickup and delivery trucks licensed in the name of the Iowa-Nebraska Transportation Company?

A. They are.

Q. Where are they licensed?

A. Seven are licensed in the State of Iowa, and one in the State of Illinois.

Q. Where are those eight units used?

A. In the State of Iowa, and the City of Chicago.

Q. So the company owns eight pickup and delivery trucks?

[fol. 2621] A. Yes.

Q. Licensed in the name of Iowa-Nebraska Transportation Company; is that right?

A. That is right.

Q. How about these two other delivery trucks that you referred to, that you said the company used or had control over?

A. They are leased trucks in the City of Chicago.

Q. Who owns those trucks?

[fol. 2629] three routes, U. S. Highway 30, U. S. Highway 6 and the combination of U. S. Highway 218, U. S. Highway 34, and U. S. Highway 6.

Now, will you tell me whether or not your company has been and is presently performing a pick up and delivery service to all points intermediate between Cedar Rapids and Omaha via U. S. Highway 218 and U. S. Highway 34?

Mr. Cohn: To which objection is made, on the ground that the route involved is not in issue in this proceeding.

Exam. Carpenter: Only a portion of the route isn't, Mr. Cohn.

Mr. Cohn: I say intermediate points, to which reference was made, are not in issue in this proceeding.

Exam. Carpenter: Mr. Nolan, are you talking of intermediate points on 218, or on both 218 and 34?

Mr. Nolan: Both 218 and 34.

Exam. Carpenter: Objection overruled. Go ahead and answer the question.

The Witness: We are performing such operation when we have call for the service.

By Mr. Nolan:

Q. Well, how regular would you say that service is?

A. I couldn't state without my records.

Q. Well, what is your best judgment? Would it be twice a week?

A. I wouldn't want to make a guess at all.

Q. Would it be weekly?

Mr. Cohn: I submit——

[fol. 2630] Exam. Carpenter: The witness said he didn't want to make a guess, Mr. Nolan.

By Mr. Nolan:

Q. But you do hold yourself out and have performed service to the intermediate points I just referred to?

A. Yes.

Mr. Cohn: I object to it as being repetitious.

Exam. Carpenter: Objection sustained.

A. Well, I wouldn't know offhand.

Q. Well, now, you told your counsel that you had two pickups, two pickup trucks in Chicago. Now, do I understand you have three pickup trucks there, one company-owned, and two leased pickup trucks?

A. That is right.

Q. Then you made a mistake when you told your counsel you only had two pickup trucks there?

A. I did.

Q. Now, how many tractors are owned and licensed in the name of the Iowa-Nebraska Transportation Company?

A. Just one minute, please. 22 tractors.

Q. And where are they licensed?

A. They are all licensed in the State of Iowa.

Q. Are they used in the transportation of the different kinds of commodities which you have been engaged in handling the last several years?

A. Yes.

[fol. 2622] Q. In what county are they licensed in in the State of Iowa?

Mr. Cohn: I am going to object to this line of inquiry, as having no materiality with any of the issues in this proceeding, as to licensing of the equipment in the State of Iowa, or any other state. It does not tend to prove or disprove any of the issues in this proceeding.

Exam. Carpenter: What is the purpose of the line of questioning?

Mr. Nolan: To determine the fitness and qualification of this company to perform the service they claim they are able to perform.

Mr. Cohn: Where the equipment is licensed, I submit, has certainly no bearing on that question.

Mr. Nolan: It may have before I get through.

Exam. Carpenter: Well, I will overrule the objection, but do not continue that line of questioning too far.

Mr. Nolan: I won't. I will assure you, I want to get out of here as early as possible.

Q. Give us your best judgment on it—twice a week—three times a week?

A. I don't believe I can answer it. I don't have any records to show.

[fol. 2637] Exam. Carpenter: Proceed.

By Mr. Nolan:

Q. Now if I understand your operation, you have a peddler truck that operates daily from Des Moines to Marengo, Iowa, is that correct?

A. Yes.

Q. And then goes north to Belle Plaine?

A. If there are shipments on it for Belle Plaine.

Q. Well, does it or does it not go north to Belle Plaine, whether you have shipments or not to Belle Plaine.

A. That I could not answer.

Q. Then you have another peddler truck which you claim operates between Des Moines, Iowa and Marshalltown, Iowa, over the route that I have described here this afternoon?

A. Yes.

Q. And that is a peddler operation?

A. Yes.

Q. Do you have any overhead operations between Des Moines and the Tri-Cities daily?

A. We don't serve the Tri-Cities.

Q. You don't serve the Tri-Cities at all?

A. No.

Q. Mr. Petersen, you testified this morning you serve all intermediate points between and including Davenport and Omaha.

A. We serve Davenport.

Q. Well, isn't Davenport a part of the Tri-Cities?

A. I think so.

By Mr. Nolan:

Q. Do you have any overhead operations between Des [fol. 2638] Moines and Davenport, any truck operating between those two terminals daily?

A. Yes, on overhead truck that would be destined to Chicago, with a drop-off in Davenport.

Q. How many of such truck operations would you have going through Davenport, Iowa, daily?

A. Oh, possibly one, practically every day. I wouldn't say they are definitely every day.

Q. That is on a scheduled route operation, on U. S. Highway No. 6?

A. Yes.

Q. Do you have any scheduled and do you operate any trucks between Omaha, Nebraska and Chicago, Illinois, on a scheduled operation?

A. Yes.

Q. And that is on U. S. Highway No. 6, or may it be on 30, 6, or 34?

A. It would be either on Highway 6 or Highway 64, to Des Moines, and 6 from Des Moines on in.

Q. Is that a scheduled daily operation?

A. I wouldn't say it was daily.

Q. Well, what would be the frequency of such an operation?

A. Possibly four times a week.

Q. And do you operate more than one vehicle in such operation on any different or given days, in the operation between Omaha, and Chicago, Illinois.

A. Yes, there are two vehicles assigned to that run.

[fol. 2639] Q. How frequent would you say you operated two vehicles between Omaha and Chicago, Illinois, either over U. S. Highway No. 6 or by the use of Highway 64 and U. S. 6?

Mr. Cohn: The question was from Omaha, to Chicago, originally. Now it has become between. I assume you still mean from Omaha to Chicago?

Mr. Nolan: I think the question is plain.

Mr. Cohn: I don't think it is.

Exam. Carpenter: Read the question.

(Question read.)

Exam. Carpenter: There is no question as to from.

By Mr. Nolan:

Q. I will put it from Omaha.

Exam. Carpenter: The question is from Omaha to Chicago, I assume that.

By Mr. Nolan:

Q. Over either or both of those routes, how frequent would you operate two units?

A. They are scheduled runs for each one to make two trips a week.

Q. But you say that you have at least one scheduled operation between Omaha and Chicago at least four times a week, is that correct?

A. That is the same one I am talking about now, that uses these two trucks.

Q. Well, then do I understand your answer to be that you only operate twice a week with two vehicles on those occasions between Omaha and Chicago, is that correct?

[fol. 2640] A. No, it is not correct in this sense: That our local truck in Omaha, to Avoca, would have the Chicago freight and we would start the truck from Avoca to Chicago.

Q. Well, then your operation between Omaha and Chicago is two days a week with two vehicles, irrespective of where you may—what route or where you may operate to intermediate points on those operations, isn't that true?

A. I believe that would be correct.

Q. All right.

How about from Chicago to Omaha, and intermediate points? How frequently do you have scheduled operations out of Chicago, either by the use of U. S. 30, U. S. No. 6, or by a combination of U. S. No. 6 and Iowa 64, or by a combination of U. S. Highway No. 6, 218 and 34?

A. Well, we would have scheduled runs. We have the trucks leaving Chicago every night, according to how the traffic warrants.

Q. Well, how many do you operate between Chicago and Omaha, over the routes which I described?

A. It could possibly be three, or it could possibly be 10 some nights; I wouldn't know.

Q. And those are destined to Omaha, is that right, or do they serve all intermediate points on the routes which I have described?

A. Some of them may have straight loads, and some of them may have some drops.

Q. But those two to ten——

Mr. Cohn: Three to ten.

[fol. 2641] Exam. Carpenter: Three to ten.

By Mr. Nolan:

Q. Three to ten are regularly scheduled routes between Chicago and Omaha, or intermediate points in Iowa between Davenport and Omaha, is that right?

A. They are available; if the traffic warrants we send them out of Chicago.

Q. Are those your own trucks, or are those leased?

A. They could be both.

Q. How many of your own trucks do you operate, on the average, daily, out of Chicago into the Iowa territory, or through the Iowa territory to Omaha?

A. I couldn't answer that question.

Q. What is your best judgment on it?

A. I don't have any judgment on it.

Q. You told us about your scheduled operations here this morning, and you were very exact in the details of the matters you wanted to tell us about. Can't you tell us now how many trucks you have on the average between Chicago and Omaha, on any of these routes, which we have described here this afternoon?

A. As I said, we have three to ten.

Q. Now, I believe you testified this morning that the operations which you have described on direct examination between Omaha and Chicago, and Chicago and Omaha, along U. S. Highway No. 6 and to and from intermediate points, has been the same and has been conducted regularly to your personal knowledge since 1938?

[fol. 2642] A. The service has always been there to be had.

Q. That has been a regular service as you described here this afternoon, along U. S. Highway No. 6?

A. It has been that way according to the traffic that has been available.

Q. Well, it has been approximately the same frequency as you described here this afternoon, these operations which we have detailed between Omaha and Des Moines, Des Moines and Davenport, Omaha and Chicago, and between Des Moines and Chicago, is that correct?

A. I don't remember that far back.

Q. Well now, Mr. Petersen, you told us this morning that you have been with this company since 1938 and the operations are substantially the same today as they were then, and they have been continuous since that time, is that correct?

A. Well, I know this, that our operation has been about the same as far as the operation is concerned, and we handle all the traffic that has been offered to us in our operation.

Mr. Nolan: Well, I move to strike that answer as not being responsive to the question. Read the question to the witness.

Exam. Carpenter: Read the question.

(Question read)

Exam. Carpenter: The answer may be stricken.

Mr. Conn: Did you make that statement this morning?

The Witness: I don't remember.

By Mr. Nolan:

Q. Now, Mr. Petersen, as I understand your operations [fol. 2643] today, you have a scheduled operation between Des Moines and Omaha, operating in each direction on fixed routes. You have another operation between Des Moines and Marengo, up to Belle Plaine, on fixed routes, which are daily, You have at least two scheduled operations between Omaha and Chicago, Illinois, traversing fixed routes in Iowa. At least two trucks on each of those occasions. You have from three to ten trucks leaving Chicago for

Omaha and intermediate Iowa points on fixed routes on a daily basis. Is that a correct summary of those operations?

A. I would say so.

Q. And those operations are substantially the same now as they have been since 1938, is that correct?

A. Our operations are more extensive now than they were in 1938.

Mr. Nolan: I move to strike the answer as not being responsive to the question.

Mr. Cohn: I think the answer is responsive.

Exam. Carpenter: I think the answer is all right, Mr. Nolan.

By Mr. Nolan:

Q. All right. You opened the door there, now let's see how far we can drive in. You say your operations are more extensive than they were in 1938. You just tell me in each particular where in your operations are more extensive to date than they were in 1938. Give me each point served and the route traversed wherein your operations are more extensive to date than they were in 1938.

A. Well, over the operation of No. 6, in general, we have had more business offered to us, and which we have been handling.

Q. All right. Let me interrupt there a minute. How many [fol. 2644] more trucks are you running over U. S. Highway No. 6 today, on a regular scheduled basis than you did in 1938?

A. I don't believe I could answer that.

Q. Where else are your operations more extensive to date than they were in 1938?

A. We have more extensive peddle runs on Highway 30, but that is not involved in this application.

Q. Well, how much more extensive on 30 today than you had in 1938? Just tell me what the details of those peddle operations are on U. S. Highway 30 today?

Mr. Cohn: I am going to object to that question, as involving a route and points of service not involved in this application.

Exam. Carpenter: You may answer.

The Witness: I couldn't say without checking the records.

By Mr. Nolan:

Q. Well, you don't know, is that the answer? You personally don't know?

A. I personally don't know.

Q. All right. Where else are your operations more extensive to date than they were in 1938?

A. I don't know.

Q. You did conduct regular scheduled operations over the routes which we have described here between Omaha and Chicago and the intermediate points, did you not, in 1938?

A. We have continuously, whenever the traffic was tendered to us.

Q. Well, those were regular scheduled operations, were they not?

A. Most of the time.

[fol. 2645] Q. And you had this three to ten units coming out of Chicago, scheduled to Omaha, or intermediate points in Iowa, since 1938?

A. I would say most of the time.

Q. How many miles is it across the State of Iowa from Davenport to Council Bluffs?

A. 318 miles, I believe.

Q. And that is by the use of U. S. Highway No. 6?

A. Yes.

Q. How many miles is it from Davenport to Council Bluffs, Iowa, by the use of U. S. Highway No. 6 to Iowa City, U. S. Highway No 218 from Iowa City to Mount Pleasant, and by the use of U. S. Highway 34, from Mount Pleasant to Council Bluffs?

A. Mr. Cohn: I am going to object, as not being the route involved in this application.

Exam. Carpenter: Objection overruled. I gave you a continuing objection on those questions, Mr. Cohn.

The Witness: I don't know.

By Mr. Nolan:

Q. Now, I don't suppose you are able to state then, the mileage between the east line of the State of Iowa on U. S. Highway No. 30, and the west line of the State of Iowa, on U. S. Highway No. 30, are you?

A. I don't believe so.

Q. It would be in excess of 300 miles?

A. I wouldn't want to say.

Q. Now, Mr. Petersen, you recall the ton-mile tax that was in force and effect in Iowa up until the year 1940, that [fol. 2646] applied to carriers engaged in the transportation of freight by motor vehicles, both in intra and interstate commerce?

Mr. Cohn: Objection, as having no materiality or relevancy to any issues in this proceeding.

Mr. Fairgrave: It is repetitious. The question has been asked and answered before, as I recall.

Mr. Rice: The same question was put this morning.

Mr. Nolan: It is merely preliminary.

Exam. Carpenter: The question was asked early this morning. The objection is sustained. It has been answered.

By Mr. Nolan:

Q. That was, was it not, a quarter of a cent a ton-mile tax imposed upon the gross weight of vehicle and load?

Mr. Cohn: Objection as not having any materiality or relevance to any issues in this proceeding.

Mr. Nolan: He said he recalls the ton-mile tax and was familiar with it.

Mr. Cohn: I objected to it at that time, and I object to this question.

Exam. Carpenter: The objection is overruled.

The Witness: I remember the ton-mile tax, but I wouldn't remember the rate on it.

By Mr. Nolan:

Q. What size unit would you say your company was operating over the specified routes in 1938 and 1939? What would be the gross load of those vehicles?

A. I could not answer that question.

Q. Would it be fair to say that the gross load of vehicle and load would avearge 40,000 pounds?

[fol. 2647] A. I couldn't remember.

Q. Well, would you say that was too high, or too low?

Mr. Cohn: Objection to the question. It has already been asked and answered.

Exam. Carpenter: Objection sustained.

By Mr. Nolan:

Q. Would it be 50,000 pounds?

Mr. Cohn: Objection.

Exam. Carpenter: Discontinue that line of questioning, Mr. Nolan.

By Mr. Nolan:

Q. All right. Assuming, Mr. Petersen, that a load, the weight of a load, including vehicle and cargo, was 40,000 pounds, and it was operated between the west line of the State of Iowa and the East line of the State of Iowa, for a distance of 300 miles. State whether or not the ton-mile tax on such a load would not be $15 per trip?

Mr. Cohn: Objection.

Mr. Nolan: One way trip.

Mr. Cohn: Objection, as not being material or relevant to anything material to this proceeding.

Mr. Rice: Objection also——

Exam. Carpenter: Objection sustained.

Mr. Rice: He doesn't know what the rate was.

Mr. Nolan: Well, we will prove that otherwise.

By Mr. Nolan:

Q. Do you recall the amount of ton-mile tax paid by your company to the State of Iowa in 1939?

Mr. Cohn: Objection, as not material or relevant to any issues in this proceeding.

[fol. 2648] Exam. Carpenter: Objection sustained.

Mr. Nolan: If Your Honor please, this goes to the veracity and competency of this witness when he stated this operation has been continuous, and this is laying the foundation for purpose of impeachment.

Exam. Carpenter: I know exactly what you are trying to do, Mr. Nolan.

Mr. Nolan: Well, we will do it some other way.

By Mr. Nolan:

Q. You are familiar with the present compensation tax imposed upon motor vehicles which are enaged in the transportation of freight for hire, both in intra and interstate commerce by carriers operating through or in the State of Iowa, are you not, Mr. Petersen?

Mr. Cohn: Objection, as not material or relevant to any issues in this proceeding.

Exam. Carpenter: Are we tying that down anywhere at all, Mr. Nolan? Are you tying it down over just Highway 6? Of course it applies to the entire state, I understand.

Mr. Nolan: It applies, Your Honor, to the number of vehicles which this company has engaged in the serving of these various points and routes, and it goes to the very question of whether or not this carrier is complying with the statutory laws of the State of Iowa which goes to whether or not he is a bona fide operation—or his company is a bona fide operation. It goes to the competency and veracity of this witness, and as to whether or not the service he claims has been performed, is actually being performed by his company.

[fol. 2649] Exam. Carpenter: Do you have anything to say, Mr. Cohn?

Mr. Cohn: I would say the question would involve an interpretation of the laws of the State of Iowa which, in itself, would present a case of larger proportions than this alone, and that regardless of what was developed in this type of testimony, would have no bearing upon any of the issues in this proceeding under section—which is a case under the temporary authority provisions of the Interstate Commerce Act, as I interpret it, and along the lines

of what the compensation tax is, or isn't, or whether it is paid or isn't paid, certainly would not tend to prove or disprove any issues in this proceeding.

Mr. Nolan: I might add further on that, Your Honor, that this line of examination will tend to prove that this carrier does not have equipment dedicated to the transportation in interstate commerce over specified routes sufficient to give the service he claims he is giving to points intermediate on U. S. Highway No. 6 and on all these other routes that he is claming he is giving such service.

Mr. Cohn: Certainly the other routes are not involved in this application. If there is any proof that this carrier is not giving the service over Highway 6, that certainly can be developed. It is certainly not to be developed under this type of presentation.

Exam. Carpenter: I will overrule the objection, but connect it up.

Mr. Nolan: I will certainly try.

[fol. 2650] Will you read the question, please?

Exam. Carpenter: Read the question.

(Question read)

The Witness: The answer is "yes".

By Mr. Nolan:

Q. And I will ask you to state what the fact is as to whether your company has licensed under the compensation tax of the State of Iowa, which we have just referred to, for operation over all the routes operated by your company in and through the State of Iowa, the following vehicles—types of vehicles: Three Class "A" vehicles of 8 tons or less.

Exam. Carpenter: Would you rather have them altogether?

The Witness: I will have one answer for it anyhow, he might as well read them all.

By Mr. Nolan:

Q. You answer the questions, just as I present them. Do you not have such vehicles licensed or plated under the compensation tax of the State of Iowa?

A. I believe we do.

Q. And that is an 8 ton vehicles gross, including vehicle and load, is that not right?

A. I assume you have the records. I don't have my records here. But I assume that is right.

Q. That would be for a peddle operation, would it not, or a pick-up operation, rather than even peddle?

A. It is for a peddle operation.

Q. All right.

State whether or not your company has presently licensed under the compensation tax law of the State of Iowa, one Class "B" vehicle with a gross carrying capacity of both vehicles and load of 12 tons?

[fol. 2651] A. Yes, I believe that is correct.

Q. State whether or not your company has licensed under the Compensation License Laws of the State of Iowa four Class "C" motor vehicles with a gross carrying capacity of both load and vehicle of 16 tons or less?

A. I believe that is correct.

Q. And state whether or not your company has 6 vehicles licensed under the Compensation Tax Law of the State of Iowa, designated as Class "D", with a gross load of vehicle and cargo of 16 tons or over?

A. Did you say that last was six?

Q. Yes, six Class "D".

A. I believe that is correct.

Q. And state whether or not it isn't a fact that those are all the vehicles that your company has licensed under the Compensation Tax Law of the State of Iowa, covering common carriers transporting freight by the motor vehicle both in intra and interstate commerce through or in the State of Iowa?

A. That is all the vehicles carrying plates, but then we use travel orders for the balance of the vehicles.

Mr. Nolan: I move to strike the answer as to travel orders for the balance of the vehicles. That is not responsive to the question.

Mr. Cohn: I think the witness has a right to explain his answer, if the Examiner please.

Exam. Carpenter: The answer may remain.

[fol. 2652] By Mr. Nolan:

Q. Those vehicles which I have just described are the vehicles which you operate regularly over all these routes which we have described herein, including your operations on U. S. Highway No. 30, U. S. Highway No. 6, to Des Moines, and Iowa Highway 64 to and throu. Avoca, to Council Bluffs, U. S. Highway No. 6 from Davenport to and through Council Bluffs, and U. S. Highway No. 6 to Iowa City, U. S. Highway No. 218 from Iowa City to Mount Pleasant, and U. S. Highway No. 34 from Mount Pleasant to Council Bluffs, and in the operations of the routes between Cedar Rapids, Iowa and Iowa City, Iowa, Marengo, Iowa, and Belle Plaine, Iowa, Marshalltown, Iowa, and Des Moines, Iowa, Avoca, Iowa and Des Moines, Iowa, is that not true?

A. That is true, according to the equipment license, and also the equipment using travel orders.

Q. Now, did you not state of direct examination, that you had three trucks operating daily from Omaha to Des Moines?

A. From Omaha to Des Moines?

Q. Yes, sir.

A. No, just one truck.

Q. Well, if you testified on direct examination that you had three trucks operating daily between Omaha and Des Moines, do you want to correct that testimony now?

A. That testimony was we had three trucks operating from Omaha to Avoca, I believe that is right.

Q. Well, if you testified that you had three trucks operating daily between Omaha and Des Moines, on direct examination, do you want to correct that testimony now?

[fol. 2653] A. Yes, we have one truck operating from Omaha to Des Moines.

Exam. Carpenter: I think his testimony was he only had one truck operating between Omaha and Des Moines.

Mr. Nolan: Your Honor, I have a note here that says he had three trucks. I may be in error.

Exam. Carpenter: So may I. That is my recollection of his testimony.

By Mr. Nolan:

Q. How long have you had a terminal in Des Moines, Mr. Petersen?

A. That I don't remember.

Q. When was your terminal in Des Moines first listed in the telephone directory of Des Moines, Iowa?

A. I wouldn't know that.

Q. Well, what is your best judgment on it?

A. I wouldn't want to make a guess.

Q. Now you said that you never transferred with the Rock Island Motor Transit—I mean interlined with the Rock Island Motor Transit, is that correct?

A. I don't believe I said that.

Q. Can you explain why there was a transfer to the Rock Island Motor Transit for a shipment at Des Moines, for a shipment to West Des Moines, within the last year?

A. No, I can't explain it.

Q. If you are operating daily there, would you not have made that delivery?

A. I certainly would, I can't explain it.

Q. You testified on direct examination that you were not tendering any shipments to the Rock Island Motor Transit [fol. 2654] Company to points where your company had authority to serve, is that correct?

A. I don't remember that testimony.

Q. But whether you testified to that or not, your company did tender such a shipment for West Des Moines delivery within the past year, isn't that true?

A. According to your record.

Q. You don't think we came over and stole that shipment from you, do you, to deliver it to West Des Moines?

A. No.

Mr. Nolan: That is all I have on that phase of it.

Exam. Carpenter: Mr. Howland?

Mr. Howland: I would like to examine the witness with respect to some other phases.

Cross examination.

By Mr. Howland:

Q. Mr. Petersen, when did you also inaugurate your so-called peddle run from Des Moines, to Marengo, and return by Tama?

A. I couldn't say. I don't have any records here to show it.

Q. Well now, Mr. Petersen, you have a total of only 50 employees in your organization?

A. I believe that is right.

Q. Yes.

Can you not tell us approximately when it was that the peddle run that you have testified to between Des Moines, Marengo, and return via Tama was first established?

A. I don't believe I can answer that.

Q. You can't answer that?

A. No.

[fol. 2655] Q. Is it not true that the peddle run was inaugruated in the year 1951?

A. No, I don't believe so. I believe it has been before that.

Q. How long, in your best judgment, was it before that, that that peddle run was inaugurated?

A. I wouldn't want to make a guess.

Q. In other words, you don't know?

A. I don't know.

Q. You have produced here certain groups of bills which you say, and which you testified on direct examination, were in support of the proposition that service had been rendered by Iowa-Nebraska Transportation Company. You so testified this morning.

A. Let's have that question again, please?

Mr. Howland: I withdraw the question.

By Mr. Howland:

Q. You have produced here for examination, certain groups of freight bills, have you not?

A. Those are our delivery receipts.

Q. Yes. Have you produced any delivery receipts which bear date prior to the month of June, 1951?

A. No. We have them in our files, however.

Q. Will you produce delivery receipts showing the handling of shipments, delivered at destinations, on U. S. Highway 6, between Des Moines and Marengo, for the years 1949 and 1950?

A. Yes; I believe we can.

Q. Now, I notice that your bills have certain prefixes before what I would refer to as the pro numbers.

A. That is right.

[fol. 2656] Q. One of those prefixes is "D. M.". What does that indicate?

A. That indicates the billing was made in the Des Moines office.

Q. The Des Moines office.

Another group of bills bears the prefix "C. H.".

A. That indicates the billing was made in Chicago.

Q. And another group of bills has the prefix "O. H.".

A. That indicates they were billed in Omaha.

Q. Have you produced here a number of bills bearing the "D. M." prefix, in which shipments for points for destinations between Des Moines and Marengo, Iowa were delivered to you by Watson Transportation Company and by Brady at Des Moines, Iowa?

A. I believe that is right.

Q. Yes.

In other words, those shipments were delivered to you at Des Moines for transportation to the destination, is that right?

A. Yes.

Q. Is it not true that in a large number of those bills for delivery at points between Marengo and Des Moines, Iowa, that the original routing was from Chicago, Illinois, over Watson, Brady, Merchants, or other carriers?

A. That I couldn't say without looking at the bills.

Q. Well, haven't you observed that that is true of quite a large number of those bills?

A. I wouldn't say quite a large number. There might be occasional bills.

Q. In other words, it is true, is it not, that in instances, Watson, Brady, Merchants have delivered to you at Des [fol. 2657] Moines for delivery to destinations between Des Moines and Marengo, shipments that have moved through the destination point?

A. I wouldn't want to say yes without a complete examination of the papers.

Q. All right. Let's examine a few of your Des Moines bills.

Refer to the bill bearing No. "D. M." 16552. Was that a shipment destined over your line between what points?

A. That shipment originated on our line, at Mitchellville.

Q. It bears the notation inbound reference Weber Ctge. What is indicated by that?

A. That is an error there. There is no inbound reference on it. Weber Cartage took the shipment from Chicago to Milwaukee.

Q. Weber is the delivering carrier?

A. Delivering carrier.

Q. Rather than the originating carrier then.

A. Yes.

Q. All right, look at the bill bearing reference "D. M."—16580. Tell us how that shipment moved.

A. It moved to Des Moines via Watson from Chicago.

Q. And it was destined to the Foremost Electric Company, at Grinnell?

A. That is right.

Q. Interchanged to your line at Des Moines, Iowa?

A. Yes.

Q. Look at the bill bearing pro number DM-16587, July 5, 1951. How did that shipment move?

A. It moved via Watson from Chicago to Des Moines, consigned to Colfax, Iowa.

[fol. 2658] Q. Consigned to Colfax, Iowa, and you performed the delivery service from Des Moines to Colfax, although the point of origin was Chicago?

A. . . at is right.

Q. Is the same thing true of pro number DM-16598, dated July 6, 1951, consigned to Mitchell Motors, at Grinnell, Iowa?

A. The shipment originated in Kansas City.

Q. That one is a Kansas City shipment?

A. Yes.

Q. How about the shipment bearing pro number 16653, prefixed "D. M.", July 7, 1951? How did that shipment move?

A. That shipment was given to us in Des Moines by Watson.

Q. Where did it originate?

A. It originated in Rockford, Illinois.

Q. The service which you performed was only between Des Moines and Colfax?

A. That is right.

Q. Now the shipments on which you performed delivery on your pro numbers bearing the prefix "D. M.", in many instances, originated on the lines of Watson at points such as Omaha, Kansas City, Missouri, or other points on the Watson line?

A. Yes.

Q. Look at pro number DM-16715, dated July 10, 1951. That shipment was handled in what manner?

A. Brought to Des Moines from Chicago by Watson.

Q. The originating point was Port Washington, Wisconsin, is that right?

A. That is right.

[fol. 2659] Q. That shipment was destined to Mitchellville, Iowa, was it not?

A. Right.

Q. Now, on your pro number DM-16735, that shipment was consigned to Newton, Iowa, and was that delivered to you at Des Moines, Iowa?

A. Yes.

Q. By Brady?

Q. That is correct.

Q. Look at pro number DM-16767, July 11, 1951. Was that a shipment moving Adel, Iowa, from Cincinnati, Ohio?

A. Yes.

Q. Delivered to you by Watson at Des Moines?

A. Correct.

Q. Look at the delivery receipt bearing pro number DM-16768. How was that shipment handled?

A. It was delivered to us at Des Moines by Watson.

Q. That shipment originated at Findlay, Ohio, consigned to Davis Oil Company, Ladora, Iowa?

A. That is right.

Q. On July 11, 1951?

A. Yes.

Q. How about shipment, or delivery receipt bearing the prefix DM and the nunber 16771. Where was that shipment from?

A. The shipment originated in Chicago, brought to Des Moines by Watson, and it was delivered to Grinnell, Iowa.

Q. On the 11th day of July, 1951, is that right?

A. Yes.

[fol. 2660] Q. The delivery receipt bearing pro number DM-16795 covers a shipment that was handled in what manner?

A. Brady picked it up at Rock Island, Illinois, and delivered it to us in Des Moines, and we delivered it to Newton, Iowa.

Q. That is on July 11, 1951, is that right?

A. I didn't notice the date.

(Handed to Witness)

A. Yes.

Q. Delivery receipt bearing No. DM-16821 was a shipment consigned to Carlson's Department Store, Colfax, Iowa, shipped by Smith Bros of St. Joseph, Missouri, interlined to you at Des Moines, by Watson?

A. Yes.

Q. That was on July 12, 1951?

A. Correct.

Q. Do you know what the fact is as to whether Watson operates on U. S. Highway 6 to points such as Newton, Iowa?

A. I do not know anything of their operation.

Q. You are not familiar with that?

A. I am not.

Q. Now, is it not true that all of the shipments interchanged by you at Des Moines, in interstate commerce were with either Watson or Brady for delivery to points both west and east of Des Moines, on U. S. Highway No. 6, that are contained in this group of bills bearing the prefix D. M. Before the pro number?

[fol. 2661] A. I would say that is right, according to this group of bills.

Q. Yes. And those bills cover what period of time—the top one is dated July 2 and the bottom one, as I recall, was dated August 15, 1951.

A. That is correct.

Q. What is the name of the driver on your peddle truck that you say operates between Des Moines and Marengo, and return, via Taina?

A. I do not know. I would have to call the office.

Q. Do you know how long he has been in the employee of the Iowa-Nebraska Transportation Company?

A. I do not.

Q. Is he one of the 50 regular employees of the Iowa Nebraska Transportation Company?

A. Yes.

Q. And you are unable to give us his name or the length of time that he has been employed?

A. That is right.

Q. Have you served any of the points in the Tri-City area located on the easterly side of the Mississippi River in connection with your service from Chicago or Omaha, over U. S. Highway 6?

A. Do you mean Rock Island, or East Moline?

Q. Rock Island, Moline, East Moline, Silvis, or any of the points on the easterly side of the Mississippi River?

A. No.

[fol. 2662] Q. You have performed no service at any of the Tri-Cities except the point of Davenport, Iowa?

A. That is right.

Q. What proportion of your shipments, handled by the Iowa-Nebraska Transportation Company, consist of truckloads, as compared to the total tonnage handled?

Mr. Cohn: Are you confining it to this territory, or the whole system?

Mr. Howland: I am referring to his whole operation.

The Witness: I'm not certain, but I believe our records show 51 per cent, or 56 per cent, something like that.

By Mr. Howland:

Q. 51 or 56 per cent would comprise truckloads? I just want to understand your answer.

A. Well, I'm trying to think. I know there is a question on the I. C. C. Report that asks the same questions as to percentages.

Mr. Cohn: Can you give us an approximation?

The Witness: I will say between 51 to 56 per cent, that would hit us somewhere in that.

By Mr. Howland:

Q. Now, do I understand that by that last answer you mean to say that approximately 51 to 56 per cent of the total tonnage handled by Iowa-Nebraska Transportation Company has been in truckload quantities?

A. That is what I said, but I will withdraw it. The I.C.C. Report, and the question on the I.C.C. Report is as to Special commodities.

Q. Well, what is your answer to that question? What percentage of your tonnage handled by the Iowa-Nebraska [fol. 2663] Transportation Company has been in the form of truckload shipments?

A. I cannot answer.

Q. Is it not true that on your I.C.C. Report that you have shown a figure of 80 per cent being truckloads?

A. I do not know.

Q. You don't know as to that?

A. No.

Q. You don't recall those figures for the years 1946, '47 and '48?

A. No, I don't.

Q. Now, the delivery receipts bearing the prefix "CH" indicate shipments billed by your company at its Chicago office?

A. That is right.

Q. And there is a group of those bills which you have submitted here. They begin with July 2, 1951, and extend to and include August 15, 1951, on the last. Does that appear to be correct.

A. It is.

Q. Now, these shipments, do I understand, delivery was effected by your over-the-road units to destinations between Des Moines and Davenport, Iowa, on U. S. Highway 6?

A. Either over-the-road, or peddle trucks.

Q. What peddle trucks did you have been Davenport, Iowa, and Des Moines, Iowa, in the months of July and August, 1951?

A. Any shipment being delivered to any point between Des Moines and Marengo was brought to the Des Moines terminal and rehandled and sent back on the peddle truck.

Q. But any shipment destined to any point between [fol. 2664] Davenport and Marengo, Iowa, I believe you said, delivery was effected by the road unit?

A. That is right, except for the over-the-road truck which would deliver the shipments to our agencies at Davenport and Iowa City, and would peddle the small shipments to the small towns.

Q. Now, when did you first have an agency at Davenport?

A. It has been several years, but I wouldn't know when.

Q. Approximately when, can you tell us?

A. No, I couldn't.

Q. Do you have a company employee stationed at Davenport?

A. No.

Q. Who performs the service for you at Davenport, Iowa?

A. At this time it is the G & M. Trucking Company.

Q. The G & M Trucking Company. And how long has that been in effect, that arrangement?

A. I do not know.

Q. Can you give us an approximation of that?

A. I don't believe I could guess at that.

Q. Now, Maher Bros. Transfer Company, as I under-

stand, have been the firm performing your service at Iowa City, Iowa?

A. That is right.

Q. And can you tell us approximately when that arrangement was entered into?

A. I cannot.

[fol. 2665] Q. Do you have any agency of any kind, draymen, or otherwise, at any point between Davenport and Iowa City, on Highway No. 6?

A. Between Davenport and Iowa City?

Q. Yes.

A. No.

Q. Do you have any agent at Marengo, Iowa?

A. No.

Q. You have no drayman to perform any pick-up and delivery service there?

A. No.

Q. How about Grinnell, Iowa?

A. No.

Q. How about Newton, Iowa?

A. No.

Q. How about Cedar Rapids, Iowa?

A. Yes.

Q. Who performs services for you at Cedar Rapids, Iowa?

A. Cedar Rapids Transfer and Storage Company.

Q. As I understand it then, you have no full-time employees of your company located at Cedar Rapids?

A. No, we have no full-time employees.

Q. When did you first establish an office or agency at Omaha, Nebraska?

A. We have always had an agency or a terminal at Omaha.

Q. Well, when was it that it was established as a company agency with a regular employee?

A. I do not remember.

[fol. 2666] Q. You are unable to answer that?

A. That is right.

Q. At some time, I take it, from your preceding answer, there was a change at Omaha from a drayage arrangement to a full-time company employee?

A. I believe that is correct.

Q. But you are unable to tell us when the change was made?

A. I wouldn't want to say, because I don't remember.

Q. Now, you referred to the town of Hancock being a point served in connection with your regular route between Omaha, Nebraska and Arcadia, Iowa, in connection with the delivery of packing house products. Do you recall that?

Exam. Carpenter: Read the question, Mr. Reporter, please?

(Question read)

Exam. Carpenter: That was an off-route point, Mr. Howland.

Mr. Howland: I believe it was an off-route point, the way you say.

By Mr. Howland:

Q. Where is Arcadia, Iowa, located?

A. Highway 30.

Q. About how far from the town of Hancock?

A. Mr. Cohn: Do you want to see a map?

The Witness: No, I know where it is. I don't understand why it would make any difference.

By Mr. Howland:

Q. Well, just answer the question as to whether it is and then we will let somebody else decide that.

[fol. 2667] A. O.K., I imagine it is about 45 miles between the two towns.

Q. Is Hancock named as a point, off-route, or otherwise, in your certificate between Omaha and Arcadia?

A. That is what it says here, yes.

Q. In your certificate?

A. Yes. "Service authorized to and from intermediate points and off-route points of Hancock".

Mr. Cohn: You mean all intermediate points and the off-route point of Hancock, among others, isn't that correct?

The Witness: That is right.

By Mr. Howland:

Q. Mr. Petersen, I will ask you if you will procure for us, and furnish to us, the name of the driver of your peddler truck operating between Des Moines, Marengo and return via Tama, and the date that he was first employed by your company?

Mr. Cohn: I don't see that is relevant or material to this case, if the Examiner please.

Exam. Carpenter: It might be very material, Mr. Cohn.

(Question read)

The Witness: Yes, I will furnish that information.

By Mr. Howland:

Q. Thank you. Now, when did you first have an arrangement with Smiley Bros. at Atlantic, Iowa?

A. I do not remember, because they are the present agency there now, There have been several predecessors to Mr. Smiley.

Q. When did you first have any arrangement in Atlantic, Iowa, in the way of an agency arrangement?

A. I do not remember that.

[fol. 2668] Q. Can you, Mr. Petersen, furnish to counsel for the applicant, by noon tomorrow, bills or delivery receipts rather, for the comparable periods of 1949 and 1950, showing your Omaha billings, your Des Moines billings, and your Chicago billings, to points and places located on U. S. Highway 6?—across the State of Iowa, comparable to the ones—and for the same period as the bills in the year 1951?

Mr. Cohn: We are going to object to producing those bills unless directed to do so by the Examiner for the reason that those bills and any use that would be made of them would not be related to the issues in this proceeding as involving a period remote from the time with which we are concerned in this proceeding, which is one under the provisions of the temporary authority section of the Interstate Commerce Act, which issue is, whether there is motor carrier service capable of meeting a need at the present time in this territory. What may have been the situation two,

three, or 13 years ago, or some other time remote in the past, is certainly not in issue in this proceeding, and those bills, if brought into this proceeding, would add nothing to this record, and would not be material or relevant to the issue to be determined in this proceeding by the Commission.

Exam. Carpenter: I will overrule the objection, and direct the bills be produced as soon as possible.

Mr. Cohn: I don't know whether we could get them in by noon tomorrow, which is a part of the request.

[fol. 2669] Mr. Howland: I don't want to be unreasonable about the time, but I would like to have them before we conclude the hearing.

Mr. Cohn: Are we directed to produce all the representative bills, are we given a time limit, I would like to know?

Exam. Carpenter: Representative bills. I suppose that would be sufficient, from July to August.

Mr. Howland: July 1, to August 15, that is my request.

Mr. Cohn: For what years?

Exam. Carpenter: 1949 and 1950.

Mr. Cohn: I would like to find out from Mr. Petersen.

Exam. Carpenter: Let's go off the record.

(Discussion off the record)

Exam. Carpenter: On the record.

By Mr. Howland:

Q. Mr. Petersen, your financial statement as of June 30, 1951, as embodied in Exhibit 17, is what is commonly referred to as the balance sheet statement, is it not?

Exam. Carpenter: Off the record.

(Discussion off the record)

Exam. Carpenter: On the record.

(Question read)

The Witness: Yes.

By Mr. Howland:

Q. Now, under the asset side you show various items including an item of $2500 for permits. What is the nature of that item?

[fol. 2670] A. That is the value we have placed on our operating authority.

Q. Was that acquisition cost of permits, that you acquired from someone else?

A. That is all it is, is the acquisition cost of one permit.

Q. And when was that permit secured?

A. In November, 1938.

Exam. Carpenter: Is that actually a certificate, instead of a permit?

The Witness: It is a certificate.

By Mr. Howland:

Q. In the item of pre-payments, you show a figure of 13,600 odd. What is included in that item?

A. In that item would be the balance of the licenses to be charged out for the year 1951, tires on hand, pre-payments on the tires that are not charged out in the operation.

Q. Anything other than those items?

A. There could be, but I am not familiar with it.

Q. It doesn't represent a cash item which will be collected in the normal course of your business?

A. No, I don't think so.

Q. All right. Now, I notice at the bottom you have a figure of $23,764.76 listed as drafts outstanding. What is the general nature of such item?

A. That is drafts drawn by the Braniff offices on the local bank.

Q. Those are items which represent when advances which will have to be made by third parties when those drafts reach the bank?

[fol. 2671] A. When the drafts reach the bank we issue our check to pick up the drafts.

Q. Well, you have 23,764 dollars in drafts, and you have $3250.67 of cash on hand. I take it some arrangement would have to be made to have those drafts honored and credit provided for your continued operations?

A. They will honor them.

Q. I am not questioning that, but what I mean is, they, in fact, represent debts or debits for which a credit must necessarily be arranged?

A. That could be.

Q. Yes.

All right, now on your notes payable of $54,500, does that represent equipment, conditional sale purchases, or is it just for money borrowed?

A. It is covered by all conditional sales purchases on equipment.

Q. It comprises entirely that?

A. Money owed on equipment.

Q. And accounts payable are the—does that include both supplies and interline accounts payable?

A. Yes. It is a current interline accounts, and current money accounts.

Q. Does the item of accounts receivable in your asset figure of $65,920 include both interline accounts receivable and customers' accounts receivable?

A. That is right.

Q. I notice this statement is not set up on the basis of [fol. 2672] your current assets and current liabilities. That is true, is it not? You know what I mean by your current assets and your current liabilities in accounting, don't you?

A. I don't believe I do.

Q. Well, on your liabilities here, are the accounts payable, notes payable, and drafts outstanding, all due within one year or less?

A. No.

Q. Over what period of time are the items due and payable?

A. We probably have some conditional contracts on tractors that would run anywhere from 18 to 24 months yet for payments.

Q. About what proportion of your notes payable would represent liabilities due in more than one year?

A. I couldn't say definitely.

Q. I notice you have no figure in either Exhibit 17 or 18 in the way of a reserve for income tax payments. Do you ordinarily carry a reserve for such purposes in your business?

A. No.

Q. There is no such reserve set up in the figure of prepayments?

A. No.

Q. What is included in the item of $4900 of special deposits in the assets?

A. They are deposits put up on insurance policies, such as the liability and property damage, cargo, workmen's compensation insurance.

Q. Mr. Howland: That is all the cross examination I have, if the Examiner please.

[fol. 2673] Exam. Carpenter: Redirect, Mr. Cohn?

Redirect examination.

By Mr. Cohn:

Q. Mr. Petersen, on cross examination you made reference to the use of travel orders in connection with operations of motor vehicle equipment to and from points in the State of Iowa. Can you explain what a travel order is?

A. Travel order is an order issued by the Iowa State Commerce Commission costing $5, and it gives a truck authority to pass through the State within 24 hours—or pass into the State or through it in 24 hours.

Q. Is that issued in lieu of compensation tax plates or payments?

A. That is right.

Q. Then all of the motor vehicle equipment which your company operates in the State of Iowa is either covered by the compensation tax or the travel orders?

A. Yes.

Q. Just one other question. In reference to the financial statement, which is Exhibit 17, the item of accounts receivable of $65,920, as appears thereon, is that made up of accounts which are presently due and owing and collectible?

A. Yes.

Q. For the most part, is that correct?

A. Yes.

Q. That would be the usual accounts which are due within seven days after billing?

A. Yes.

Mr. Cohn: I believe that is all I have.

[fol. 2674] Exam. Carpenter: Any recross?

Recross examination.

By Mr. Howland:

Q. What period of time do you extend credit to customers on freight charges?

A. Approximately seven days.

Q. Most of your freight charges are collected on delivery?

A. A certain per cent of them.

Q. Well, could you tell us about how much you customarily collect on delivery, or how much involves an extension of credit?

A. I cannot.

Mr. Howland: That is all I have.

Mr. Nolan: At this time I want to make a statement for the record, on the claimed authority of the Iowa-Nebraska Transportation Company to serve the points intermediate between Davenport, Iowa, and Omaha, Nebraska, including Davenport, Iowa, by, at this time, moving to strike all the testimony of the witness, Mr. Petersen, in relation to the service alleged and claimed to be being performed by the Iowa-Nebraska Transportation Company to the intermediate points between Davenport, Iowa, and Omaha, Nebraska, including Davenport, Iowa, for the reason that under the certificate presently held by the Iowa-Nebraska Transportation Company, Inc., the same appearing as certificate of public convenience and necessity No. MC-47619, issued by the Interstate Commerce Commission under date of July 11, 1949, that the Iowa-Nebraska Transportation Company does not have, hold, or possess, authority to perform a service in interstate or foreign commerce to or from the intermediate points on U. S. High-[fol. 2675] way No. 6 between Davenport, Iowa, and Omaha, Nebraska, including the point of Davenport, Iowa, in that under said certificate there are three routes specified on sheet 1 of said certificate between Chicago, Illinois, and Omaha, Nebraska, briefly referred to as route No. 1 over

U. S. Highway No. 30, route No. 2, over U. S. Highway No. 6, and Route No. 3, over U. S. Highway No. 6, to Iowa City, Iowa, the over U. S. Highway No. 218 to Mt. Pleasant, Iowa, and thence over U. S. Highway No. 34 to Council Bluffs and Omaha, Nebraska, with return over said routes, with the specific service being authorized from the off-route point of Joliet, Illinois restricted to pick-up only wall-paper and steel wire at said point of Joliet, Illinois, there being no reference or provision in relation to the aforesaid routes between Chicago and Omaha, Nebraska, of any authority to serve any intermediate points between Chicago, Illinois and Omaha, Nebraska, on the aforesaid three specified routes except the off-route point of Joliet; Illinois, which service is restricted to the picking up only of wall-paper and steel wire.

Further, in connection with this motion to strike the testimony of the witness, Petersen, as above referred to, the attention of the Examiner and Commission is called to the further routes set forth in said certificate as follows:

The route between Cedar Rapids, Iowa, and Iowa City, Iowa, followed by Highway designation for such route.

The further route between Marengo, Iowa, and Belle Plaine, Iowa, followed by the specification of Highway designations for such route.

[fol. 2676] Further, the specified route between Marshalltown, Iowa, and Des Moines, Iowa, followed by a specified designation of the route between said points, with the provision, under the aforesaid routes of between Cedar Rapids, Iowa, and Iowa City, Iowa, Marengo, Iowa to Belle Plaine, Iowa, and Marshalltown, Iowa, to Des Moines, Iowa, there is the provision that service is authorized to and from all intermediate points in Iowa.

The attention of the Examiner and the Commission is further directed to the separate route on said certificate appearing on page 2 of said certificate between Avoca, Iowa and Des Moines, Iowa, with the specified designation of the Highway between said points following said specific route, or between Avoca, Iowa and Des Moines, Iowa, and followed by the provision, "Service is authorized to and from all intermediate points."

It is the position of the interveners represented by me, in support of said application, that the authorization of service to and from all intermediate points in Iowa, appearing on Sheet 2 of said certificate, applies solely and only to the points intermediate on the routes specified and set out on said Sheet 2, to-wit, between Cedar Rapids, Iowa, and Iowa City, Iowa—Marengo, Iowa, and Belle Plaine, Iowa, and Marshalltown, Iowa and Des Moines, Iowa.

Mr. Cohn: That will be sheets 1 and 2?

Mr. Nolan: Two, on the official copy.

It is further the position of the interveners represented by me that any service authorized under the provision, "Service is authorized to and from all intermediate points", [fol. 2677] appearing on Sheet No. 2, and following the specified and designated route of "between Avoca, Iowa, and Des Moines, Iowa", followed by the specification of the designated route between said points, applies solely and only to service and the authorization of service to and from all intermediate points between Avoca, Iowa, and Des Moines, Iowa.

That, under the undisputed, clear, and unambiguous terms and provisions of the aforesaid certificate issued to and held by the Iowa-Nebraska Transportation Company, Inc., the Iowa-Nebraska Transportation Company, Inc. does not hold or possess any authority, right or power to perform to or from, service in interstate commerce by motor vehicle for the transportation of general commodities, to and from the intermediate points between Davenport, Iowa, and Omaha, Nebraska, including the point of Davenport, Iowa, over U. S. Highway No. 6 or any other Highway route or road.

Exam. Carpenter: What do you say, Mr. Cohn?

Mr. Howland: We join in the objection and statement of counsel for the intervener.

Exam. Carpenter: You join in the motion, I believe?

Mr. Howland: Join in the motion, thank you.

Mr. Cohn: If the Examiner please, we have previously stated the position of the intervener, Iowa-Nebraska Transportation Company with reference to the authority authorized under exhibit 16, and we wish for the record to show that the records of the Interstate Commerce Com-

mission of the service performed by the Iowa-Nebraska Transportation Company and its predecessor in interest, [fol. 2678] and the certificate itself, Exhibit 16, will indicate that the service that is being performed and testified to by the President of the company is properly being performed and authorized by authority of this Commission and the provisions of Part 2 of the Interstate Commerce Act.

I would further desire to point out at this time, though, it would appear that the appropriate proceeding in which the question would be raised would be in a complaint, investigation, or interpretation proceeding, that the certificate itself provides for certain alternate highway routings over regular routes between Chicago, Illinois and Omaha, Nebraska, which would clearly indicate, in our opinion, an intent that the service be performed in connection with the various alternate routings that are provided between Chicago, Illinois and Omaha, Nebraska as well as the intermediate points shown in the certificate.

I would further like to point out at this time, on Sheet 3 of the certificate, in connection with a route from Avoca, Harlan, and Exira, Iowa, to Chicago, Illinois, over specified regular and irregular routes, that there is a provision specifically negativing the right to perform service to or from intermediate points, which I quote, "Service is not authorized to or from intermediate points."

Such negation of authority to serve intermediate points is not found in connection with the regular route authority granted on Sheets 1 and 2 between Chicago, Illinois and Omaha, Nebraska.

It is further pointed out that the provision on Sheet No. [fol. 2679] 2, which I quote, "Service is authorized to and from all intermediate points in Iowa.", appears after the route descriptions and point descriptions following a listing of the general commodity authority, with the usual common carrier exceptions, contained on Sheet 1. Under our interpretation that modifies service performed with respect to the classification of commodities as shown on Sheet 1.

It is further pointed out, in support of the last point made, with respect to the relationship of the provision permitting service to and from all intermediate points, that

the next classification of commodities shown is packing house products and fresh meat, and the portion of the certificate dealing with general commodities, which precedes the packing house products and fresh meat classification must be read as a distinct and complete section of the certificate.

Exam. Carpenter: The motion is overruled.

Mr. Howland: There is one question I would like to ask Mr. Petersen, before he is excused today.

Recross examination (Cont.).

By Mr. Howland:

Q. Mr. Petersen, does Iowa-Nebraska Transportation Company, Inc., have any Iowa intrastate rights to transport shipments on Highway 6, or any combination with that, including Highway 83 and 64?

A. They do not have.

[fol. 2680] Birney Baker, President of Des Moines Transportation Co., (R. 1315-1324), testified:

Cross examination.

By Mr. Nolan:

Q. Mr. Baker, I believe you stated that your company started in 1931?

A. Yes, sir.

Q. Have you been associated with the company since that time?

A. I have, except I was in the service a little over two years. I was still with the company.

Q. I mean you have been associated and conversant with the operation of the company throughout that period?

A. Yes, sir.

Q. Your company has shown a constant growth, has it not?

A. It has.

Q. That has been true in a progressive way, year after

year, so that today you are hauling more freight and engaging more people as employees and using more equipment than you did five years ago, or four years ago?

A. That is very true.

Q. Or three years ago?

A. That is right.

Q. Throughout that period of time, particularly since the Rock Island Motor Transit Company acquired the White Line Motor Freight Company's operating authority, in this area, you have been competitive with the Rock Island Motor Transit Company?

A. That is right.

Q. Now, have you made any investigation to determine [fol. 2681] the volume of traffic moved out of Des Moines by your company in comparison with other companies?

A. In comparison with other companies?

Q. Yes.

A. For what period of time, or to what points, I mean. In and out of Des Moines?

Q. No, freight handled by your company here in Des Moines, in regard to the volume as compared with the volume handled by other carriers?

A. The only way you could do is take their word for how much they were handling. At one time we were called in by the ODT and required to lay our records on the table.

Q. If I should make the statement that for a period from January 29 to February 3, 1951, that your company here in Des Moines in the picking up and delivering of traffic exceeded the combined picking up and delivery of traffic by the Rock Island Railroad and the Rock Island Motor Transit, would you agree with that?

A. In my opinion I think we pick up many times as much freight in Des Moines as the Rock Island Motor Transit. I am not positive, I only think so, in seeing their trucks and seeing our trucks, knowing how many we run.

Q. Yes. Then if I made the statement to you that during that period, from January 29, to February 3, 1951, that your company picked up and delivered approximately twice as much freight in Des Moines as the Rock Island Motor Transit and more than the Rock Island Motor Transit and the Rock Island Railroad combined, would you disagree [fol. 2682] with that statement?

A. I don't know how much the Rock Island Railroad—I have no way of knowing how much freight the Rock Island Railroad picked up, because the Rock Island Railroad might have a whole string of cars parked down there, and I don't know what is on them.

Q. But you agree with the fact, you do pick up many more times freight and deliver many more times freight in Des Moines, than the Rock Island Motor Transit?

A. The number of trucks I see operating, I think we do.

Q. Then, Mr. Baker——

A. Might I ask one further question? You have given me some specific dates.

Q. Yes.

A. What days did it include, is there a Sunday in there, January 29 to February 3, I think you said.

Q. I don't know. I say, are you familiar with the survey made in regard to the picking up and delivering of freight for your company, Watson Brothers, Bruce Motor Freight, Burlington Transportation, Bruce Transfer, and the Rock Island Motor Transit at a period, in a period, at the forepart of this year?

A. I wasn't in on that particular survey.

Q. But you know there was one?

A. There was one made. I do not know the circumstances of it, and I could not be familiar. I can get you the figures on it, if you want them.

Q. Well, I have them right here.

[fol. 2683] A. All right.

Q. Now, then, Mr. Baker, from your own statement here that your company has constantly grown throughout the period since the time that the Rock Island Motor Transit started in business here in and out of Des Moines, and in this Iowa, territory, that you handle many times more freight according to your own observations than the Rock Island Motor Transit does in this territory, and particularly in Des Moines, then there is no contention on your part that the Rock Island Motor Transit Company is monopolizing this traffic for freight, is there?

A. Not monopolizing it, as far as I am concerned. We do handle points which we serve in Iowa, which we have both inter- and intrastate, we have many times more freight than we do to the points along Highway 6 where they have the interstate rights.

Q. Well, naturally, but the answer is that they haven't created a monopoly so far as you are concerned?

A. They certainly haven't. That is very evident.

Q. Now, you have a territory where you have both the intra- and interstate rights?

A. That is right.

Q. But that is not along U. S. Highway No. 6?

A. No.

Q. Isn't that right?

A. That is right. That is Highway 30, and Mason City.

Q. And where you have both the intra- and interstate rights, your company attempts to serve all points?

[fol. 2684] A. We do serve all points.

Q. And you have volume there by reason of having both the intra- and interstate traffic sufficient to give a reasonably adequate service to all points?

A. We certainly do.

Q. Now, you have no intrastate authority along U. S. Highway No. 6?

A. We do not.

Q. Involved in this proceedings, isn't that correct?

A. We do not have any?

Q. As I understand your authority, so we will get it definitely in the record, you have authority to operate between Chicago, Illinois, and Des Moines, Iowa, over U. S. Highway No. 34 to Junction, Illinois, Highway 65, thence over Illinois Highway 65 to Aurora, Illinois, thence over Illinois Highway 31, to Junction U. S. Highway 34, thence over U. S. Highway 34 to Illinois Highway 92, and thence over Illinois Highway 92, to Moline, Illinois, thence over U. S. Highway No. 6 to Iowa City, thence over U. S. Highway No. 218 to Cedar Rapids, thence over U. S. Highway No. 30 to Ames, and thence over U. S. Highway No. 69 to Des Moines.

Q. You also have a route between Chicago and Iowa City, and also from Iowa City-Des Moines, over U. S. Highway No. 6, isn't that right?

A. That is right

Q. And a return to Chicago over either one of the routes I described?

A. That is right.

[fol. 2685] Q. The only intermediate or off-route points you serve on U. S. Highway No. 6 involved in this proceedings, are Davenport, Iowa City, Newton, Marengo, Grinnell, and Kellogg, isn't that true?

A. That is correct. That Davenport area towns, which are not included.

Q. That is the commercial zone of Davenport, or the Tri-City commercial zone?

A. That is correct.

Mr. Cohn: That is east of Des Moines.

The Witness: That is east of Des Moines, that is what he is talking about.

By Mr. Nolan:

Q. Now between Omaha and Des Moines, you have authority to operate over U. S. Highway No. 6?

A. That is right.

Q. The only intermediate points between Des Moines and Omaha, on U. S. Highway No. 6, involved in this proceedings, to which your company is authorized to serve, are Council Bluffs and Atlantic?

A. And Adel.

Q. Adel isn't in this proceeding, it is not a point on the Rock Island Railroad.

Q. So then of the 49 points involved in this proceedings along and continuous to U. S. Highway No. 6, between Davenport and Omaha, Nebraska, your Company is authorized to serve only approximately 9 of those points, which would be Iowa City, Newton, Marengo, Grinnell, Kellogg, Des Moines, Atlantic, and Council Bluffs.

[fol. 2686] Mr. Cohn: And Davenport.

The Witness: And Davenport.

By Mr. Nolan:

Q. And Davenport. Well, then, that would make it 50 points.

Mr. Cohn: That includes Omaha.

By Mr. Nolan:

Q. Mr. Baker, are you able to give us a breakdown of the ratio of truckload business handled by your company as compared to the total tonnage handled by your company?

A. Yes, sir.

Q. What would you say the truckload volume, or percentage of your company's business would be in ratio to your total tonnage?

A. About 55 per cent of our business is truckload business.

Q. Now in reference to these shipments as shown on Exhibit No. 10, which show that there were some isolated shipments handled by the Rock Island Motor Transit which were originally routed over your Company's line to points which your company has authority to serve, you say that that no doubt was brought about by some confusion or mishandling by the connecting carrier there in Chicago, is that right?

A. I think that is very true.

Q. You have had that same experience?

A. Many times each day.

Q. Of course, where there is any volume, and for an extended period of time—of course that wouldn't necessarily be a misdirection or mishandling, would it?

[fol. 2687] A. It might be an argument between the two companies.

The local company might not have had their interline account settled, and we would have demanded cash when they came down to our place of merchandise. It might have been for some other reason. Maybe the cartage man might have drove past our place and it was busy, and he drove on to the next place, thinking he would get back, and he didn't get back.

Q. I don't think you paid any attention to my question.

Examiner Carpenter: Read the question.

(Question read.)

By Mr. Nolan:

Q. The point I am trying to make is this, Mr. Baker. According to Exhibit No. 10, there are only a few shipments originally routed over your company's line and tendered to and handled by the Rock Island Motor Transit, whereas for other carriers, such as Western, McCoy, Watson, Bos, Ringsby, there appears to be a rather extensive turning over of shipments originally routed over their line and turned over to the Rock Island Motor Transit.

Now if that condition prevailed, evidently the carrier who had been designated as the delivering carrier either did not perform the service, and refused to take the shipment, or else the connecting line carrier and that carrier were having difficulty over some settlement or dispute, is that right?

A. That is very likely correct.

Q. You were asked the question that if any of the existing carriers' service was curtailed or discontinued, if you would be able and glad to handle the traffic presently [fol. 2688] handled by such carrier. I assume that you had in mind, and had consulted with your counsel, that you had reference to the Rock Island Motor Transit Company?

A. Any other carrier or line that was curtailed in handling freight in our territory, we would certainly be glad to handle it.

Q. Now, Mr. Baker, it isn't your policy, is it, to make your success, and build your business upon the demise of somebody else?

A. It hasn't been.

[fol. 2689] Fred Millett, Ass't Traffic Agent for Rock Island Motor Transit Company. (R. 1338-1348), testified:

By Mr. Nolan:

Q. You are the same Mr. Fred Millett that was on the witness stand previously in this proceeding, are you not?

A. Yes, sir.

Q. You are the assistant traffic agent for the Rock Island Motor Transit Company?

A. That is correct.

Q. At our request did you examine the freight bills or delivery receipts tendered by Mr. Petersen of the Iowa-Nebraska Transportation Company, showing shipments handled by his company—first, originating at Chicago, into the territory involved in this case, which freight bills and delivery receipts cover the period of time from July 1 to and including August 15, 1951?

A. I did.

Q. And did you make a tabulation of those freight bills or delivery receipts for such shipments originating in Chicago?

A. I did.

Q. For destination to the points in Iowa involved in this case?

A. I did.

Q. And will you read and state into the record, starting with the town of Bettendorf, Iowa, and right down the list of all the points involved in this proceedings, and state the name of the town and the number of shipments, if any, that were handled by the Iowa-Nebraska Transportation [fol. 2690] Company, originating at Chicago, either direct or on interline, and handled by the Iowa-Nebraska Transportation Company to destination as shown by said freight bills?

A. Bettendorf, one. Davenport, 85. Walcott and Stockton, none. Durant, twelve. Wilton Junction, three, Moscow, none, Atalissa, one. West Liberty, none. Iowa City, 101. Cedar Rapids, none. Coralville, four. Tiffin, Oxford, Homestead and So. Amana, none. Marengo, seven. Ladora, one. Victor, none. Brooklyn, ten. Grinnell, 16. Kellogg, none. Newton, 52. Colfax, two. Mitchellville, six. Altoona, one. Des Moines, two. Dexter, one. Stuart, two. Menlo, one. Casey, two. Adair, five. Anita, one. Wiota, none. Atlantic, 48. Lewis, none. Oakland, nine. Council Bluffs, 29. Omaha, none. Muscatine, none. Marne, one. Walnut, two. Avoca, 14. Corley, none. Harlan, sixty-eight. Shelby, none. Hancock, none. Minden, none. Neloa, three. Underwood and Weston, none, and none to the rest of the points.

Q. Name them.

A. Audubon, Hamlin, Exira, Brayton, Griswold, Carson, Traynor, Kalona, and Wellman, none.

Examiner Carpenter: And the delivery receipts referred to cover a period from July 2 to August 15, is that right?

The Witness: That is right.

By Mr. Nolan:

Q. And that covered the shipments handled from Chicago by the Iowa-Nebraska Transportation Company during that period.

[fol. 2691] Now, Mr. Millett, did you at our request, examine the freight bills tendered by the Iowa-Nebraska Transportation Company covering shipments originating at Des Moines or transferred by interline carriers at Des Moines?

A. I did.

Q. To the Iowa-Nebraska Transportation Company for delivery to points on or picked up from points on the routes involved in this case?

A. I did.

Q. For what period of time did those bills cover?

A. July 2 to August 15, 1951.

Q. And did you make a tabulation of those bills?

A. I did.

Q. And that showed either shipments delivered to destination or shipments picked up at some points along the route involved here, is that right?

A. It showed a tabulation of 269 shipments, 206 of them were delivered to them at Des Moines by Watson Brothers.

Q. Delivered to who?

A. Iowa-Nebraska. And 35 by Brady.

Q. And were those to points to which Brady and Watson Brothers had authority to serve?

A. Yes, they were.

Q. How many shipments altogether did you examine on those freight bills?

A. I checked 269—241 of them were from a connecting line.

[fol. 2692] Q. By either Watson Brothers or Brady?

A. That is right.

Q. To points to which Watson Brothers or Brady had rights to serve, is that right?

A. That is right.

Q. Will you give us the names of the towns, and the number of shipments handled by the Iowa-Nebraska Transportation Company, which shipments originated on the Iowa-Nebraska Transportation Company's line at Des Moines, during the period covered by those bills, the same being from July 2, 1951, to and including August 15, 1951?

A. I can. Do you want me to read the whole list, or just the ones listed here?

Q. No, because we want them in the record.

Mr. Cohn: If he lists those that are on there, then we understand the other points have no shipments, is that right?

The Witness: That is what I was wondering.

By Mr. Nolan:

Q. Let's have the record complete on that. Now the towns which we are referring to are the same list of towns and points which you previously named in respect to shipments originating at Chicago on the line of the Iowa-Nebraska Transportation Company?

A. That is right.

Q. And points to which the Rock Island Motor Transit serves in this case?

A. That is right.

Q. All right, Now will you name the towns that you [fol. 2693] found shipments handled by the Iowa-Nebraska Transportation Company, during that time?

A. West Liberty, one.

Mr. Rice: May I interrupt to ask a question here?

Exam. Carpenter: Yes, sir.

Mr. Rice: Where do these shipments originate?

Mr. Nolan: At Des Moines.

Mr. Rice: Thank you.

The Witness: Marengo, 14, Ladora, 3, Brooklyn, 8. Grinnell, 68. Kellogg, three. Newton, 29. Colfax, 21. Mitchellville, 55. Altoona, 5. Dexter, 10. Stuart, 14. Menlo, 3. Casey, 12. Adair, 11. Anita, 6. Wiota, 1. Atlantic, 1. Avoca, 4.

By Mr. Nolan:

Q. Do I understand, of the remaining points, there being 50, altogether, that there were no shipments to any of the points except those that you named and the number of shipments to those points?

A. That is right.

Q. Now did you make a similar investigation of the freight bills tendered by the Iowa-Nebraska Transportation Company for shipments originating at Omaha for destination to the points involved in this proceedings, the said points being the same as you enumerated by name in connection with the Iowa-Nebraska Transportation Company's operations from Chicago?

A. Yes.

Q. And what period of time did those freight bills cover?

A. From Chicago to points——

[fol. 2694] Q. No, Omaha. For what period of time did that cover?

A. July 2, through August 1.

Q. Will you state now, what your investigation revealed as to the points to which shipments moved during that period of time, according to those freight bills, by the Iowa-Nebraska Transportation Company, and the number of shipments to such points?

A. The same list of towns was checked with the following results: The towns not named, there were no shipments. Davenport, 2. Iowa City, 4. Grinnell, 3. Des Moines, 2. Dexter, 5. Stuart, 23. Menlo, 4. Casey, 20. Adair, 33. Anita, 45. Wiota, 4. Atlantic, 143. Oakland, 211. Walnut, 54. Avoca, 150. Corley, 1. Harlan, 129. Minden, 3. Neola, 10.

Q. Then on the remaining 50 points, there were no shipments except the points that you named, and the number of those shipments, is that right?

A. That is right.

Mr. Nolan: That is all.

Exam. Carpenter: Cross examine, Mr. Cohn.

Cross examination.

By Mr. Cohn:

Q. In your inspection of the bliss, Mr. Millett, did you ascertain whether the bills were the actual delivery receipts of the Iowa-Nebraska Transportation Company?

A. No, I didn't, unless I would check their actual delivery [fol. 2695] receipts, what they call their delivery receipts. These were the bills submitted.

Q. Don't the documents show actual signatures of the consignees on them which would be considered as delivery receipts, isn't that correct?

A. I would say so.

Q. They indicate the actual deliveries were made by the Iowa-Nebraska Company, of the shipments to which you have referred, to these various communities.

A. They do, but they didn't show dates.

Q. But I say, they do show actual delivery, do they not?

A. Not date of delivery.

Q. Yes, but not date of delivery. Is that the answer? Will you read the last answer?

Examiner Carpenter: Is that your answer, yes, not date of delivery?

The Witness: Yes.

By Mr. Cohn:

Q. In your investigation, did you determine whether the shipments covered embraced the general list of commodities?

A. They were general commodities.

Q. And as to the weight of the shipments, that many of them were very small shipments of less than 100 pounds, or what we call minimum shipments?

A. I didn't pay any attention to the weights.

Mr. Cohn: That is all.

Exam. Carpenter: Redirect?

[fol. 2696] Redirect examination.

By Mr. Nolan:

Q. Mr. Millett, there wasn't anything to indicate when the shipments were delivered by the Iowa-Nebraska Transportation Company, was there, by any of the freight bills, or delivery receipts?

A. No.

Q. You couldn't tell whether they were all delivered on one day, or whether they were delivered on consecutive days, isn't that true?

A. That is right.

Mr. Nolan: That is all.

Exam. Carpenter: Any recross?

Mr. Cohn: Nothing further.

Exam. Carpenter: You are excused.

(Witness excused.)

Mr. Nolan: The Interveners represented by me, the same being designated as the specified shippers and employees of the Rock Island Motor Transit Company, hereby offer to prove by the custodian, and person in charge of the official records of the Iowa State Commerce Commission, the fact that during the year 1939 the Iowa-Nebraska Transportation Company paid to the State of Iowa through the offices of the Iowa State Commerce Commission, the sum of $1,113.87 for the entire year of 1939 under the ton-mile tax law of the State of Iowa, said law imposing a tax of one-quarter of a cent per ton mile on the gross load of vehicles used and operated upon the highways of the state of Iowa in regular route operation for the transportation of freight [fol. 2697] both in the interstate and intrastate commerce. The grross load, or weight of the vehicle, including the weight of the vehicle and the cargo carried thereon, and said interveners propose to further show that by computation of said tax upon the physical operations of any motor carrier engaged within the purview and provisions of said ton-mile tax law, that for a vehicle having a gross weight of 40 thousand pounds, including both weight of the vehicle and load and cargo carried thereon, that the tax would be

approximately—or would be 5 cents per mile, and that for a vehicle operating across the state of Iowa a distance of at least 300 miles, which was so engaged, that the tax would be at least 15 dollars on such a physical operation, and that the tax paid by the Iowa-Nebraska Transportation Company would not have covered more than 80 operations across the state of Iowa by one vehicle in one direction during the year 1939 in accordance with the tax reported and paid by the Iowa-Nebraska Transportation Company for said year. The purpose of this evidence being to rebut the testimony of the witness, Mr. Petersen of the Iowa-Nebraska Transportation Company wherein he testified. He has been with the Iowa-Nebraska Transportation Company in a representative and executive capacity since the year 1938, and that the present operations of his company in regard to engaging in regular transportation in interstate commerce across the state of Iowa are a continuation of the operations conducted by his company since 1938, and insofar as the present route, or route under consideration in this proceeding is concerned, that the operations of his [fol. 2698] company today are approximately and substantially the same as they were in 1938.

Examiner Carpenter: Off the record.

(Discussion off the record.)

Exam. Carpenter: On the record.

Mr. Cohn: We object to the tender and offer to prove as being irrelevant and immaterial for any purpose in this proceeding for the further reason that the proposed testimony relates to operations conducted 11 years ago, which is a period far removed and remote from any operations which are properly to be considered as embraced within the issues in this proceeding under Section 210 (a) of part 2 of the Interstate Commerce Act. That the issue in this case is the ability of present existing motor carriers, such as Iowa-Nebraska Transportation Company to perform service at this time to points and places in the territory involved in the proceeding, and what may or may not have been the operations conducted during the year 1938 or 1939 or any other years far removed from the present time are not properly to be considered in this proceeding.

Mr. Houston: I join in the objection.

Mr. Rice: I join in the objection. May I say something off the record.

Exam. Carpenter: Off the record.

(Discussion off the record.)

Exam. Carpenter: On the record.

[fol. 2699] Mr. Nolan: In connection with the aforesaid tender and offer to prove, the said interveners propose to show that 1939 was the last year that the ton-mile tax was in force and in effect in the State of Iowa, that said ton-mile tax was repealed and succeeded by what is known as a compensation tax, on regular route carriers both in interstate and intrastate commerce in the State of Iowa, using regular routes.

Exam. Carpenter: The objection is sustained.

[fol. 2700]

EXHIBIT No. 56

Received in evidence as a late filed exhibit
T. K. Carpenter Examiner
6-12-52
Pages 2276 & 2277 of transcript

STATEMENT OF INTERCITY TONNAGE HANDLED, TRUCK LOAD AND LESS TRUCK LOAD, BY MOTOR CARRIERS LISTED DURING YEARS INDICATED AS REPORTED IN THE ANNUAL REPORTS OF THOSE CARRIERS

		Bruce Motor Freight	*Des Moines Transportation Company*	*Bos Truck Lines*	*Iowa-Nebr. Transportation Company*
1941	TL	Not	Not	Not	Not
	LTL	Available	Available	Available	Available
1942	TL	"	"	"	"
	LTL				
1943	TL	"	"	"	"
	LTL				
1944	TL	"	"	"	12,337
	LTL				3,084
1945	TL	"	"	"	15,037
	LTL				3,759
1946	TL	"	26,225	"	18,647
	LTL	"	23,655	"	4,662
1947	TL	10,664	41,493	"	24,381
	LTL	41,871	46,653		6,095
1948	TL	12,691	79,144	13,020	Not
	LTL	44,326	45,219	24,180	Available
1949	TL	15,959	60,305	11,827	"
	LTL	42,142	74,150	27,290	
1950	TL	22,549	86,183	33,332	"
	LTL	52,627	92,357	30,065	
1951	TL	25,678	94,448	36,436	"
	LTL	55,071	87,778	31,682	

NOTE: In some instances total tonnage listed in these categories did not agree with intercity tonnage reported. Figures listed here are copied from annual reports as filed.

[fol. 2701] EXHIBIT No. 57

Received in evidence as a late filed exhibit
T. K. Carpenter Examiner
6-12-52
Pages 2276 & 2277 of transcript

STATEMENT OF INTERCITY TONNAGE HANDLED BY MOTOR CARRIERS LISTED DURING YEARS INDICATED AS REPORTED IN THE ANNUAL REPORTS OF THOSE CARRIERS

	Bruce Motor Freight	*Des Moines Transportation Company*	*Bos Truck Lines*	*Iowa-Nebr. Transportation Company*
1941	25,822	41,907	33,612	20,535
1942	29,874	45,587	31,607	16,031
1943	36,033	59,369	35,250	17,236
1944	47,453	49,871	34,049	15,421
1945	48,477	51,452	31,807	18,796
1946	47,273	58,178	38,524	23,309
1947	52,535	88,146	46,262	30,476
1948	57,042	124,363	45,880	33,891
1949	58,102	134,455	51,851	32,435
1950	75,176	178,540	63,397	43,678
1951	80,749	182,226	68,118	46,712

STATEMENT OF GROSS INTERCITY REVENUES EARNED BY MOTOR CARRIERS LISTED DURING YEARS INDICATED AS REPORTED IN THE ANNUAL REPORTS OF THOSE CARRIERS

	Bruce Motor Freight	*Des Moines Transportation Company*	*Bos Truck Lines*	*Iowa-Nebr. Transportation Company*
1941	$ 331,964	$ 385,726	$ 292,583	$ 332,207
1942	361,077	439,433	287,560	278,564
1943	358,061	501,989	330,960	271,848
1944	409,031	489,126	326,700	230,980
1945	470,038	501,961	338,862	293,394
1946	619,638	587,660	434,432	352,342
1947	899,112	1,038,830	591,523	566,422
1948	1,095,909	1,736,622	690,491	776,463
1949	1,131,795	1,869,596	757,796	731,029
1950	1,470,284	2,456,632	920,833	934,643
1951	1,689,017	2,730,139	1,083,434	1,013,030

Whole dollars reported

[fol. 2702]

EXHIBIT No. 58

Received in evidence as a late filed exhibit
T. K. Carpenter Examiner
6-12-52
Pages 2276 & 2277 of transcript

STATEMENT OF AVERAGE LOAD REPORTED IN ANNUAL REPORTS OF MOTOR CARRIERS LISTED FOR YEARS INDICATED

	Bruce Motor Freight	*Des Moines Transportation Company*	*Bos Truck Lines*	*Iowa-Nebr. Transportation Company*
1941				
1942				
1943	7.43	10.03	8.02	20.42
1944	8.63	9.69	8.425	10.03
1945	11.75	9.41	8.258	10.86
1946	8.08	11.17	8.204	12.58
1947	8.81	11.95	8.626	12.55
1948	9.27	10.81	10.662	12.66
1949	9.23	10.86	10.75	11.88
1950	10.16	12.11	10.95	13.35
1951	10.45	12.75	11.0	14.27

STATEMENT OF AVERAGE HAUL REPORTED IN ANNUAL REPORTS OF MOTOR CARRIERS LISTED FOR YEARS INDICATED

	Bruce Motor Freight	*Des Moines Transportation Company*	*Bos Truck Lines*	*Iowa-Nebr. Transportation Company*
1941				
1942				
1943	294	291.7	256	1649
1944	280.5	323.6	251	824
1945	366	317.8	254	824
1946	277	319.6	253	824
1947	325	319.3	253	824
1948	349	282.12	306	860
1949	362	287	280	812
1950	366	299.76	313.6	837.3
1951	375	325.57	328.4	797.1

No. 107

IN THE

Supreme Court of the United States

October Term, 1956

AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL.; *Appellants*,

v.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, *Appellees*.

On Appeal from the United States District Court for the District of Columbia

JURISDICTIONAL STATEMENT

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No.

IN THE

Supreme Court of the United States

October Term, 1955

AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL., *Appellants*,

v.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, *Appellees*.

On Appeal from the United States District Court for the District of Columbia

JURISDICTIONAL STATEMENT

Appellants, American Trucking Associations, Inc., its Regular Common Carrier Conference, Iowa-Nebraska Transportation Company, Des Moines Transportation Company, Inc., Bruce Motor Freight, Inc., Western Transportation Company, McCoy Truck Lines, Inc., Brady Transfer and Storage Company, Motor Cargo, Inc., Gateway Transportation Company, and Bos Truck Lines, Inc., appeal from the judgment of the United States District Court for the District of Columbia, entered on January 27, 1956, sustaining the order of the Interstate Commerce Commission complained of, and submit this statement to show that the Supreme Court of the United States has jurisdiction of the appeal and that substantial questions are presented.

OPINION BELOW

The opinion of the United States District Court for the District of Columbia has not been reported, but a copy is attached hereto as Appendix A. A copy of the judgment of the District Court is attached hereto as Appendix B. The report of the Interstate Commerce Commission is reported at 63 M.C.C. 91. The order of the Interstate Commerce Commission has not been reported but is attached hereto as Appendix C.

JURISDICTION

This is an action to suspend, enjoin and set aside the report and order of November 22, 1954, of the defendant, Interstate Commerce Commission, in Docket No. MC-29130 (Sub-No. 70), *The Rock Island Motor Transit Company Common Carrier Application*, pursuant to Section 205(g) of the Interstate Commerce Act, 49 U.S.C. §305(g), Section 10 of the Administrative Procedure Act, 5 U.S.C. §1009, and Sections 1336, 1398, 2284 and 2321 to 2325, inclusive, of the Judicial Code, 28 U. S. C. §§1336, 1398, 2284 and 2321-2325. The judgment of the District Court was entered on January 27, 1956, and notice of appeal was filed in that court on March 23, 1956. The jurisdiction of the Supreme Court to review this decision by direct appeal is conferred by Section 1253 and 2101(b) of the Judicial Code, 28 U.S.C. §§1253 and 2101(b). The following decisions sustain the jurisdiction of the Supreme Court to review the judgment on direct appeal in this case: *United States* v. *Contract Steel Carriers, Inc.*, — U.S. —, No. 102, March 12, 1956; *United States* v. *Watson Bros. Transportation Co.*, — U.S. —, No. 490, January 9, 1956; *M. & M. Transportation Company* v. *United States*, 350 U.S. 857, 76 S. Ct. 102.

STATUTES INVOLVED

The National Transportation Policy, 49 U.S.C. preceding §1, and Sections 5(2)(a), 5(2)(b), 206, 207, 208(a) and 212 of the Interstate Commerce Act, as amended, 49 U.S.C. §§5(2)(a), 5(2)(b), 306, 307, 308(a) and 312, are set forth verbatim in Appendix D hereof.

QUESTIONS PRESENTED

1. Whether the record before the Interstate Commerce Commission in Docket No. MC-29430 (Sub-No. 70), *The Rock Island Motor Transit Company Common Carrier Application*, fails to support the Commission's report (63 M.C.C. 91) and order of November 22, 1954, authorizing unrestricted motor-carrier operations by the Rock Island Motor Transit Company, a wholly-owned subsidiary of the Chicago, Rock Island and Pacific Railroad Company, between the points directly involved, as well as between points throughout a much broader territory not directly involved in the proceeding before the Commission?

2. Whether the Interstate Commerce Commission, after authorizing the performance of restricted motor-carrier service by a railroad affiliate over routes acquired by purchase under Section 5 of the Interstate Commerce Act (49 U. S. C. §5) lacks the power to void such restrictions and authorize the performance of an unlimited motor-carrier service over the same routes through approval of an application subsequently filed by the same rail affiliate under Section 207 of the Interstate Commerce Act (49 U. S. C. §307)?

3. Whether, in any event, the Interstate Commerce Commission, in authorizing the performance of motor-carrier service by railroads or their affiliates, is required

by the provisions of the Interstate Commerce Act and the National Transportation Policy to limit the motor service to be rendered to that which is auxiliary to or supplemental of the rail service of the parent railroad?

The second question stated was dealt with in complete detail, both in brief and on oral argument before the District Court, by counsel for the rail labor groups, intervening plaintiffs below. As they can be expected to develop it fully before this Court, these appellants will not further treat with it herein.

STATEMENT

This is the first case, in the more than twenty years of federal regulation of motor carriers, in which the Supreme Court has been called upon to determine the perimeter of the Commission's power to authorize the performance of unlimited truck service by a railroad or its subsidiary. In all previous cases, with unimportant exceptions, the Commission has restricted the authority granted in order to assure that the motor service rendered would be limited to operations auxiliary to, or supplemental of, the train service of the railroad. The case at bar represents, for the first time, a complete abandonment by the Commission of all effort to protect the public interest in an independent motor-carrier industry through the imposition of restrictions upon rail operation of motor vehicles. And in so doing, as will be more fully developed later, the Commission has abruptly reversed its interpretation of the statutory safeguards enacted by Congress to assure the continued development and preserve the inherent advantages of an independent motor-carrier system. This violation of Congressional policy creates the novel question here presented. Not only does it do violence to the Commission's consistent interpretation, but it overrules what this Court decided, at least inferen-

tially, in the *Rock Island* and *Texas and Pacific* cases, *infra*.

Commission Approves Purchase of White Line for Restricted Operations.

The controversy herein can be said to have originated almost twenty years ago, when the Chicago, Rock Island and Pacific Railroad Company, a common carrier by railroad subject to part I of the Interstate Commerce Act, 49 U. S. C. §1 *et seq.*, hereinafter called the railroad, became interested in conducting motor-carrier operations paralleling its lines between Chicago, Illinois, and Omaha, Nebraska. Through a subsidiary company, The Rock Island Motor Transit Company, hereinafter called Motor Transit, the railroad on October 13, 1937, filed an application with the Interstate Commerce Commission for authority under Section 213 (now Section 5 of the Interstate Commerce Act, 49 U. S. C. §5) to purchase certain operating rights and property of White Line Motor Freight Company, Inc., and White Line Trucking Company, motor carriers of property subject to part II of the Act, 49 U.S.C. §301 *et seq.*, hereinafter collectively called White Lines. In its report conditionally approving the purchase, *Rock Island M. Transit Co.—Purchase—White Line M. Frt.*, 5 M.C.C. 451, dated April 1, 1938, the Commission, Division 5, after referring to the considerable testimony that had been offered to show how the correlation of truck-and-rail service over the routes would be effected, found, as required by statute (formerly §213, now §5(2)(b)), that the purchase would promote the public interest by enabling the railroad to use service by motor vehicle to public advantage in its operations and would not unduly restrain competition. Nevertheless the Commission expressly conditioned the authority granted "to such further limitations, restrictions, or modifications as we may find it necessary to impose or make in order to insure that service shall be auxiliary

or supplementary to train service of the railroad and shall not unduly restrain competition." Id., at 5 M.C.C. 458. The certificate, authorizing operations between Silvis, Illinois, and Omaha, Nebraska, and containing the foregoing reservation, was issued to Motor Transit on December 3, 1941.

Commission Approves Purchase of Frederickson for Unrestricted Operations.

Subsequently, on November 28, 1944, in *Rock Island M. Transit Co.—Purchase—Frederickson*, 39 M.C.C. 824, the Commission, Division 4, approved the purchase by Motor Transit of motor-carrier operating rights between Atlantic, Iowa, an intermediate point on the White Lines route, and Omaha, that would permit future truck operations by Motor Transit to follow the line of the railroad much more closely than had the previously-acquired routes. However, the report did not confine Motor Transit to auxiliary and supplemental service. Because of the inconsistency of having truck operations over one route restricted and those over an alternate route unrestricted, the Commission, on February 5, 1945, before the Frederickson certificate was issued, ordered both finance proceedings and the applicable compliance docket reopened for reconsideration.

Commission Reconsiders Both Cases and Restricts Combined Operations.

The Commission on reconsideration issued a comprehensive report, *Rock Island M. Transit Co.—Purchase—White Line M. Frt.*, 40 M.C.C. 457, dated March 4, 1946, wherein it found that the White Lines certificate should be amended and the Frederickson certificate restricted so as to require that all future operations conducted thereunder should be subject to five express conditions insuring auxiliary and supplemental service. Following this re-

port Motor Transit petitioned for reconsideration, and on June 9, 1947, the Commission reopened the proceedings for further hearing. The report of the Commission on further hearing, *Rock Island M. Transit Co.—Purchase—White Line M. Frt.*, 53 M.C.C. 567, dated April 11, 1949, affirmed the prior report, including the imposition of the auxiliary and supplemental restrictions.

District Court Invalidates Restrictions.

Thereupon Motor Transit filed a complaint in the U. S. District Court for the Northern District of Illinois, Eastern Division, to have the Commission's orders set aside. In *Rock Island Motor Transit Co. v. United States*, 90 F. Supp. 516, decided November 29, 1949, the three-judge court held, *inter alia*, that the imposition of the auxiliary and supplemental restrictions constituted a partial revocation of the operating rights acquired by Motor Transit and of the certificates evidencing such rights. As the procedures for the revocation of certificates prescribed by Section 212(a) of the Act, 49 U.S.C. §312(a), had not been followed, the court said, the relief sought should be granted.

Supreme Court Upholds Restrictions.

On appeal the Supreme Court reversed the decision of the District Court and sustained the Commission's imposition of the auxiliary and supplemental restrictions. The Court in its decision of February 26, 1951, in *United States* v. *Rock Island Motor Transit Co.*, 340 U.S. 419, 71 S. Ct. 382, held that the modification of the White Lines certificate by the addition of the specific auxiliary and supplemental restrictions was not a partial revocation within the meaning of Section 212(a) and that, until the Frederickson certificate actually had been issued, the Commission could condition it in whatever manner it deemed necessary. The Court agreed with the Commis-

sion that, under the circumstances, it was required to restrict the motor carrier operating rights acquired pursuant to the provisions of Section 213 to the rendition of service auxiliary to, and supplemental of, the rail service of the railroad. Rehearing was denied by the Supreme Court on April 9, 1951. *United States* v. *Rock Island Motor Transit Co.*, 341 U. S. 906, 71 S. Ct. 609.

Commission Grants Temporary, then Permanent, Unrestricted Rights.

The certificate with the auxiliary and supplemental restrictions attached was issued to Motor Transit on September 11, 1951.[1] In the meantime, however, Motor Transit had applied for and had been granted temporary authority under Section 210a of the Interstate Commerce Act, 49 U. S. C. 310a, to operate over virtually identical routes to those it had acquired through the White Lines and Frederickson purchases under somewhat less re-

[1] The certificate was limited by the following restrictions:

1. The service to be performed by The Rock Island Motor Transit Company shall be limited to service which is auxiliary to, or supplemental of, train service of The Chicago, Rock Island and Pacific Railway Company.

2. The Rock Island Motor Transit Company shall not render any service to, or from, or interchange traffic at any point not a station on the rail line of The Chicago, Rock Island and Pacific Railway Company.

3. No shipments shall be transported by The Rock Island Motor Transit Company between any of the following points, or through, or to, or from, more than one of said points: Omaha, Nebr., Des Moines, Iowa, and collectively Davenport and Bettendorf, Iowa, and Rock Island, Moline, and East Moline, Ill.

4. All contractual arrangements between the Rock Island Motor Transit Company and The Chicago, Rock Island and Pacific Railway Company shall be reported to us and shall be subject to revision, if and as we find it to be necessary in order that such arrangements shall be fair and equitable to the parties.

5. Such further specific conditions as we, in the future, may find it necessary to impose in order to insure that the service shall be auxiliary to, or supplemental of, train service.

strictive conditions than those contained in the certificate issued September 11, 1951.[2] On October 26, 1951, Motor Transit filed an application under Section 207 (49 U. S. C. 307) for permanent authority to perform unrestricted motor carrier operations over the pertinent routes. Hearings were held in this proceeding, docketed as No. 29130 (Sub-No. 70), on March 18 through April 21, 1952, and on May 20, 21, and 22, 1952, at Des Moines, Iowa. Almost a year later, on April 21, 1953, the examiner's recommended report and order was served upon the parties. After the filing of exceptions and replies thereto oral argument was had before the Commission on March 8, 1954. By its report and order of November 22, 1954, in *The Rock Island Motor Transit Company Common Carrier Application*, 63 M. C. C. 91, complained of herein, the Commission granted Motor Transit's Section 207 application, finding that the present and future public convenience and necessity required Motor Transit's operations between Silvis and Omaha free of any auxiliary and supplemental restrictions. The appellants herein, protestants and interveners in the Commission proceeding, on February 16, 1955, petitioned the Commission for reconsideration of its report, and Motor Transit and interveners in its behalf resisted. The petition for reconsideration was denied by order of the Commission dated July 6, 1955, served July 14, 1955, corrected copy served July 27, 1955.

District Court Upholds Commission's Grant.

Appellants, plaintiffs below, filed their complaint in the District Court on July 20, 1955. The case was heard by the District Court on December 15, 1955. The opinion was rendered January 11, 1956, and the judgment, January 27, 1956. The notice of appeal was filed March 23, 1956.

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[2] The temporary authority was limited to shipments of 2,000 pounds (later increased to 5,000 pounds), and certain key-point restrictions were imposed.

THE QUESTIONS ARE SUBSTANTIAL

Scope of Review Admittedly Limited.

The task of the courts in reviewing determinations of an administrative agency, as in the instant case the Interstate Commerce Commission, is acknowledged to be a limited one. *I.C.C.* v. *Mechling*, 330 U. S. 567, 574, 67 S. Ct. 894, 898. The judicial function is exhausted when there is found to be a rational basis for the conclusions approved by the administrative body. *Mississippi Valley Barge Line Co.* v. *United States*, 292 U. S. 282, 287, 54 S. Ct. 692, 694. It is not for the court to weigh the evidence introduced before the Commission or to inquire into the soundness of the reasoning by which its conclusions are reached; these are matters left by Congress to the Commission. *United States* v. *Carolina Freight Carriers Corp.*, 315 U. S. 475, 482, 62 S. Ct. 722, 726; *Assigned Car Cases*, 274 U. S. 564, 580, 47 S. Ct. 727, 733. But Congress has placed limits on the Commission's statutory powers and it is the duty of the courts on judicial review to determine those limits. *East Texas Motor Freight Lines, Inc., et al.* v. *Frozen Food Express, et al.*, — U. S. —Nos. 162-164, April 23, 1956.

Here, Evidentiary Support Was Lacking.

Thus while appellants disagree with the ultimate finding by the Interstate Commerce Commission that the public convenience and necessity require the proposed motor common carrier operations of The Rock Island Motor Transit Company, they concede that there was sufficient evidence of record to enable the District Court to sustain the Commission's order insofar as it authorized a bona fide auxiliary and supplemental service to be rendered to and from such relatively minor points as Brooklyn, Colfax, Marengo, Newton, Oxford, Victor, Walcott and Wilton Junction. However, to the extent that the Com-

mission's order finds that unrestricted service by Motor Transit between such major points as Davenport, Cedar Rapids, Des Moines, Council Bluffs and Omaha is required by the public convenience and necessity, appellants contend that the District Court erred in failing to set aside the Commission's order for want of evidentiary support. In short, it is appellants' position that while the record before the Commission supports a grant of auxiliary and supplemental authority such as that embodied in the restricted certificate issued to Motor Transit on September 11, 1951, under which it has never conducted operations, it supports no more. Findings of the Interstate Commerce Commission of the existence of public convenience and necessity not supported by evidence must be set aside. *Interstate Common Carrier Council* v. *United States*, 84 F. Supp. 414, 422, affirmed *per curiam*, 338 U. S. 843, 70 S. Ct. 91.

Public Convenience and Necesity Must be Proved.

Under Section 206(a)(1) of the Interstate Commerce Act, 49 U.S.C. §306(a)(1) no common carrier by motor vehicle subject to the Act may operate on the highways without a certificate of public convenience and necessity. Section 207, 49 U.S.C. §307, provides for the issuance of the certificate on application if the proposed service "is or will be required by the present or future public convenience and necessity." A finding of public convenience and necessity was made by the Commission, 63 M.C.C. 108, but that ultimate finding must have been based on the proper statutory criteria and must have had the necessary factual findings to support it, *Interstate Commerce Commission* v. *Parker*, 326 U.S. 60, 64, 65 S. Ct. 1490, 1492. The term "public convenience and necessity" as used in the Act is not defined by the statute, and the difficulty of laying down any general rule by which it can be determined whether or not certificates of public convenience and necessity should be issued long has been

recognized. *Cf. San Antonio & A.P. Ry. Co. Construction*, 111 I.C.C. 483, 493. The purpose underlying the requirement of a finding of public convenience and necessity was said by the Supreme Court in *Texas & N.O.R. Co.* v. *Northside Belt Ry. Co.*, 276 U.S. 475, 479, 48 S. Ct. 361, 362, to be "to prevent interstate carriers from weakening themselves by constructing or operating superfluous lines, and to protect them from being weakened by another carrier's operating in interstate commerce a competing line not required in the public interest." This statement of general purpose has been refined into a policy of the Interstate Commerce Commission of fostering sound economic conditions in the motor carrier industry by according existing motor carriers the right to transport all traffic which they can handle adequately, efficiently and economically in the territories served by them. *Clark, Callahan, Inc.*, 41 M.C.C. 693, 706; *Gabler Common Carrier Application*, 21 M.C.C. 743; *C & D Oil Co., Contract Carrier Application*, 1 M.C.C. 329, 332. As the three-judge court said in *Hudson Transit Lines* v. *United States*, 82 F. Supp. 153, 157, affirmed *per curiam*, 338 U.S. 802, 70 S. Ct. 59:

> The Commission has frequently held that under §207 of the Act, 49 U.S.C.A. §307, there must be an affirmative showing not only that a common carrier service is required in the convenience of the public but also that it is a necessity, and that the latter element includes a showing that present facilities are inadequate. Pan-American Bus Lines Operation, 1 M.C.C. 190, 203; Bluenose Bus Co. Ltd., Common Carrier Application, 1 M.C.C. 173, 176; Richard L. Richards, Extension of Operations, 6 M.C.C. 80, 81; Ohio Transportation Co., Common Carrier Application, 29 M.C.C. 513, 520; Royal Cadillac Service, Inc., Common Carrier Application, 43 M.C.C. 247, 259. The courts, too, have recognized inadequacy of existing facilities as a basic ingredient in the determination of public "necessity". Inland Motor Freight v. United

States, D. C. E. D. Wash. 60 F. Supp. 520, 524. See also Interstate Commerce Commission v. Parker, 326 U.S. 60, 69, 70, 74, 65 S. Ct. 1490, 89 L. Ed. 2051 and dissenting opinion of Mr. Justice Douglas. This does not mean that the holder of a certificate is entitled to immunity from competition under any and all circumstances. Chesapeake & O. R. Co. v. United States, 283 U.S. 35, 51 S. Ct. 337, 75 L. Ed. 824. The introduction of a competitive service may be in the public interest where it will secure the benefits of an improved service without being unduly prejudicial to the existing service. Interstate Commerce Commission v. Parker, supra. No such finding has here been made, nor is there any evidence to support such a finding.

No Evidence of Service Need at Larger Points.

In the instant proceeding the record lends no support to a finding that the public convenience and necessity require the service of Motor Transit between the major points referred to. Witness after witness testifying in support of the application by Motor Transit acknowledged that there was no need for such service. For example, Judge Carl Reed, Chairman of the Iowa State Commerce Commission, testified that service to the larger communities such as Davenport, Des Moines and Omaha was adequate, and that his Commission had no complaints regarding service to such points (R. 783). Similar acknowledgements were made by virtually each of the shipper and Chamber of Commerce witnesses. In short, out of the multitude of more than 150 witnesses offered by Motor Transit in support of its application not one gave the slightest indication of a need for this type of service.

In summation, there is no evidence in the record to buttress a finding of public need for additional service at the larger points. Any conclusion reached by the Commission that there is a public need for more motor carrier service at such points is not supported by basic facts

and, on the contrary, is actually refuted by the testimony of witnesses testifying on behalf of Motor Transit.

Commission Lacks Power to Grant Rights Here Conferred.

Even if the ultimate finding of public convenience and necessity had been sustained by basic facts, the issuance by the Interstate Commerce Commission of the order authorizing unrestricted motor-carrier operations by Motor Transit nevertheless would constitute reversible error as an unlawful attempt to circumvent the limitation of Section 5(2)(b) of the Act. That section, formerly Section 213 of the Motor Carrier Act, denied discretion to the Commission to approve a proposed acquisition of a motor carrier by a railroad except upon a finding that the transaction would promote the public interest, would enable the acquiring carrier to use service by motor vehicle to public advantage in its operations, and would not unduly restrain competition.

The Commission, heeding the clear intent of Congress, was quick to recognize that it could not give the railroads free opportunity to go into the kind of truck service which was strictly competitive with, rather than auxiliary to, their rail operations. In *Pennsylvania Truck Lines, Inc.—Control—Barker,* 1 M.C.C. 101, an acquisition proceeding under Section 213, the Commission declared that for railroads or their subsidiaries seeking to perform motor-carrier service, only those operations which were auxiliary to or supplemental of train service, could be approved. That construction since has been followed by the Commission.

In the instant proceeding, as stated earlier herein, the Supreme Court, when the case previously was before it, sustained the Interstate Commerce Commission's imposition of restrictions upon the motor-carrier operating rights acquired by Motor Transit, a railroad subsidiary,

in the White Lines and Frederickson purchases so as to insure that the acquired rights would be available solely for the rendition of auxiliary and supplemental service. By the order complained of the Commission would permit Motor Transit to operate without limitation over the identical routes acquired in the White Lines and Frederickson purchases and to serve the very same points. Moreover, unlike the earlier grant, the present award would enable Motor Transit to conduct operations unrelated to and independent of the rail service of the parent railroad company and in competition with that rail service as well as the service of independent motor carriers.

Appellants maintain that, irrespective of whether the grant of motor-carrier authority to a railroad or its subsidiary is based on an application filed under Section 5(2)(b) or Section 207, the Interstate Commerce Commission is without power to authorize the performance by such a railroad or subsidiary of unrestricted motor carrier service entirely divorced from the operations of the railroad and in direct competition with the service afforded by independent motor carriers and, indeed, the railroad itself. As the Interstate Commerce Commission and the government, in their joint brief filed in the Supreme Court in *United States* v. *Texas and Pacific Motor Transport Co.* so aptly said:[3]

> To be sure, section 207 does not contain a provision like that in section 213 (now sec. 5), imposing restrictions and requiring special findings in instances where the applicants are railroad subsidiaries. But that section does preclude the Commission from granting a certificate of operating authority unless it is able to find that the proposed operations are required by public convenience and neces-

[3] Nos. 38 and 39, October, 1950, term. See pp. 53-55 of joint ICC-government brief.

sity; and, in instances of applications by railroad subsidiaries, the Commission, in the practical administration of section 207, is confronted with substantially identical obstacles and problems as in cases of applications by railroad subsidiaries under section 213. Like Section 1 (18), which forbids the railroads from extending their lines unless authorized by the Commission based on findings that the extension is required by public convenience and necessity, section 207 was enacted by Congress to enable the Commission to control and prevent wasteful competition and destructive competitive practices. Although section 213 (now sec. 5) deals with the acquisition of existing motor carrier operations, which, as acquired by railroad subsidiaries, would presumably be taken out of the field of independent existing competition, nevertheless, the purposes of Congress' transportation policy, declared when enacting the Motor Carrier Act, refute any inference that Congress, while closing the door to railroad suppression of motor carrier competition by means of acquiring through a subsidiary existing motor carrier operations, at the same time left open the unfettered opportunity to do the same thing by means of obtaining through a subsidiary authority to institute new motor carrier operations. So far as opportunity for suppression of competition is concerned, there is little difference, particularly in the motor carrier field, between the opportunity afforded through the control by a railroad of an already existing motor carrier and that afforded by control of one newly created.

Commission Has Consistently Recognized Its Lack of Power.

While Section 207 of the Motor Carrier Act, regulating the extension of existing motor-carrier operations, contained no express limitation upon railroad participation in truck transportation as did Section 213, the Interstate Commerce Commission, as noted, has consistently acknowledged that it was required to read the Act as a

whole and to apply the policy reflected by the wording of Section 213 in interpreting and applying the provisions of Section 207. In *Kansas City S. Transport Co., Inc., Common Carrier Application*, 10 M.C.C. 221, an application proceeding under Section 207, the Commission relied on the principles and criteria of the *Barker* case and subjected the motor-carrier authority granted to the rail applicant to five conditions[4] intended to insure that the authorized operations would be auxiliary and supplemental to the train service of the railroad.

Thereafter in virtually every acquisitions proceeding under Section 213 and every application proceeding under Section 207 the Commission limited the motor authority granted to a railroad or its affiliate by the imposition of auxiliary and supplemental restrictions. The Commission's construction of the Act, as indicated by the *Barker* and *Kansas City Southern* cases, was called to the attention of Congress, which by the Transportation Act of 1940, 54 Stat. 919, *et seq.*, reenacted the pertinent sections in virtually identical form, thereby impliedly ratifying the Commission's prior construction.

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[4] 1. The service to be performed by applicant shall be limited to service which is auxiliary to, or supplemental of, rail service of the Kansas City Southern Railway Company or the Arkansas Western Railway, hereinafter called the railways.

2. Applicant shall not serve, or interchange traffic at, any point not a station on a rail line of the railways.

3. Shipments transported by applicant shall be limited to those which it receives from or delivers to either one of the railways under a through bill of lading covering, in addition to movement by applicant, a prior or subsequent movement by rail.

4. All contractual arrangements between applicant and the railways shall be reported to us and shall be subject to revision, if and as we find it to be necessary in order that such arrangements shall be fair and equitable to the parties.

5. Such further specific conditions as we, in the future, may find it necessary to impose in order to restrict applicant's operations to service which is auxiliary to, or supplemental of, rail service. (10 M.C.C. 240)

This Court Has Recognized Commisison's Lack of Power.

The question of the Commission's construction of the pertinent provisions of the Act was before the Supreme Court in the *Rock Island* case, *supra*, and *United States* v. *Texas & Pacific Motor Transport Co.*, 340 U.S. 450, 71 S. Ct. 422. The former was an appeal from a lower court decision setting aside an order of the Commission imposing auxiliary and supplemental restrictions on the authority to operate trucks over the identical routes involved in the instant proceeding, acquired by Motor Transit by purchase from independent motor carriers. In its report, 40 M.C.C. 457, the Commission comprehensively reviewed the legislation, its history and the Commission's construction thereof and concluded, *inter alia*, that the accomplishment of the purposes forming the National Transportation Policy, 49 U.S.C. preceding § 1, *required* that grants to railroads or their affiliates of authority to operate as common carriers by motor vehicle or to acquire such authority by purchase or otherwise should be so conditioned as definitely to limit the future service by motor vehicle to that which is auxiliary to, or supplemental of, train service.

In its brief to the Supreme Court containing the legal argument applicable to both the *Rock Island* and *Texas & Pacific* cases, the Commission, joined by the United States, said that the first prerequisite to Commission approval is that the service by motor vehicle be for use by the railroad in its operations. If the operations of the motor-carrier subsidiary were not a part of the railroad's operations at all, the Commission would not be able to make a determination as to the further prerequisites that the operations would promote the public interest and would not unduly restrain competition.[5]

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[5] Footnote 13, pp. 52-53 of joint I.C.C.-Government brief.

The Supreme Court concurred, sustaining the Commission's construction that the National Transportation Policy requires that motor-carrier operations of railroads and their affiliates be auxiliary to and supplemental of train service. The Court approved the Commission's reading into Section 207 the requirements of Section 5(2)(b) (formerly part of Section 213), thus assuring a consistent attitude toward the use of motor carriers by railroads. Following the Court's decisions in the *Rock Island* and *Texas & Pacific* cases and referring thereto the Commision announced that legislation was required if there is a need in the public interest for more liberal treatment of the railroads in their endeavors to conduct motor-carrier operations not auxiliary or supplemental of train service. No such legislation, although continually recommended for enactment by the railroads, has been forthcoming.

The Commission would rationalize its grant of unrestricted authority to Motor Transit by the mere assertion that the evidence justified an exception to the policy of the *Kansas City Southern* case, 63 M.C.C. 108. However, in that proceeding the Commission recognized that the language of Section 213 (now Section 5) showed that Congress had not been convinced that the railroads should be given "free opportunity to go into the kind of truck service which is strictly competitive with, rather than auxiliary to, their rail operations." 10 M.C.C. 237. No exception to that policy of Congress is permissible as none was provided by Congress itself. True, the Commission in the past has attempted to find exceptional circumstances which would permit a departure from the policy of the *Kansas City Southern* case. These actions by the Commission were taken largely in proceedings that were uncontested, and none is known to have been challenged in court and sustained. However, even if these Commission proceedings constituted valid precedent

for departures, under exceptional circumstances, from the well-established policy of restricting railroad truck operations, that line of Commission cases is clearly distinguishable from the instant case.

The Division 5 report upon which defendants and supporting interveners placed such great reliance below, *St. Andrews Bay Transp. Co. Extension of Operations*, 3 M.C.C. 711, amply illustrates the cleavage that separates the instant case from those proceedings in which the Commission has attempted to fashion an "exceptional circumstances" doctrine. There the railroad subsidiary sought authority to operate between Dothan, Ala., with a population of 17,000, and Columbus, Ga., with a population of 53,000, a distance of 120 miles. Only one motor carrier who lacked direct authority to serve most of the points protested the proposed operation, and there was testimony that no common-carrier truck service had been maintained between the terminal and intermediate points. The decision, which preceded the Commission's order in the *Kansas City Southern* case, that in effect overruled it, was never passed upon either by the entire Commission or the courts.

The Commission's Decision Constitutes a Departure from the Statute.

The Commission's report and order complained of herein, unless set aside, would confer upon Motor Transit a broad grant of authority to conduct motor-carrier operations not auxiliary to or supplemental of train service. In the area directly involved comprising a total of approximately 500 miles of routes, serving such important points as Chicago, DesMoines, Cedar Rapids and Omaha, the proposed operations would constitute a complete departure from the type of service contemplated by the statute and heretofore authorized by the Commission.

Further, the record before the Commission makes it clear that the railroad subsidiary, by "tacking" the authority granted by the Commission to authority already held, would be able to perform completely unrestricted motor-carrier service over a much broader area than that directly involved in the proceeding before the Commission, including, for example, service between such important points as the Twin Cities and Kansas City. This without a scintilla of evidence in the record before the Commission of any need for such additional motor-carrier service and in the teeth of the Commission's holding, at an earlier stage of this same proceeding, that a railroad applicant for motor-carrier operating authority "has a special burden, not by reason of any attitude or action on our part, but by reason of the very circumstance that it is a railroad."[6]

Whether it be viewed as lifting of auxiliary and supplemental restrictions imposed on motor carrier operating authority previously acquired by purchase or as a grant of new authority not subject to auxiliary and supplemental restrictions, the Commission's report and order complained of herein violates the letter and the spirit of the law, to wit, the National Transportation Policy and Sections 5(2)(b) and 207 of the Interstate Commerce Act, and is contrary to the decisions of the Commission and the Supreme Court. The report and order ignores completely the first prerequisite to Commission approval that the service by motor vehicle be for use by the parent railroad *in its operations*. It pays lip service only to the further prerequisite, which it could not validly reach, that the proposed operation is in furtherance of the public interest and will not unduly restrain competition. However, even assuming the Commission had been able to

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[6] *Rock. Island Mtr. Transit Co.—Purchase—White Line M. Frt., supra*, at 40 M. C. C. 474. Report of the entire Commission on reconsideration.

make the necessary findings, the only operations that could be approved nevertheless would be auxiliary and supplemental operations, and the Commission would be required, as it is in the case of every grant to a railroad or to a railroad affiliate of authority to operate as a common carrier by motor vehicle or to acquire such authority by purchase or otherwise, to condition the authority so as definitely to limit future service by motor vehicle to that which is auxiliary to, or supplemental of, train service.

The import of the Commission's grant of unrestricted motor-carrier authority to Motor Transit far transcends consideration of the immediate needs of the shippers and receivers of freight in the affected area, the willingness and ability of the existing motor carriers to satisfy that need, or the impact of the added competition of a railroad sustained, State-protected subsidiary motor carrier.[7] Being the first case involving an attempt to award unrestricted motor rights of such magnitude to a railroad

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[7] Motor Transit is the only motor carrier with intrastate authority to operate over U. S. Highway 6 between the Iowa points involved herein. This intrastate monopoly, conferred by the Iowa State Commerce Commission, enables Motor Transit to transport in the same vehicle combined loads of interstate and intrastate traffic to and from the small Iowa points, much more economically than can the independent motor carriers which are denied the right to transport intrastate freight. The Commission, clearly aware of this, nevertheless subordinated its duty, set forth in the *Parker* case, to guard against a transportation monopoly, in favor of Iowa's policy directly to the contrary, by authorizing Motor Transit to handle interstate traffic to and from the same small Iowa points with no restrictions imposed. If the Commission's decision is allowed to stand, the Iowa intrastate monopoly granted Motor Transit will inevitably ripen into a complete monopoly, both of inter- and intrastate freight. This is bad enough in itself, but the Commission grossly compounds its error by allowing Motor Transit to conduct unrestricted operation between major cities throughout the parent railroad's system, in Iowa and elsewhere, despite the absence of a shred of record evidence to support a need for such service.

or its subsidiary, this proceeding presents the basic question of the proper relationship between the rails and the trucks. Is the one mode of transportation to continue the measure of independence of the control of the other that has existed in the past? Is an independent motor carrier industry, contemplated by the National Transportation Policy and the Interstate Commerce Act to be supplanted, through Commission fiat, by fully integrated transportation rendered by the railroads and their wholly-owned subsidiaries?

The Interstate Commerce Commission from the time of the *Barker* decision until its order complained of herein has recognized its duty of confining motor-carrier operations of railroads or their subsidiaries to service auxiliary to, and supplemental of, their rail service. In accordance with the Congressional mandate it has sought to maintain the integrity of the independent motor-carrier industry. To be sure, appellants believe the Commission has been altogether too generous in authorizing the railroads to engage in over-the-road trucking operations in the performance of so-called auxiliary and supplemental service. It has seemed to gloss over the statutory requirements that the railroads establish that their acquisition of existing motor-carrier operating authority is in the public interest (Section 5(2)(b)) or that their inauguration of a new motor-vehicular operation is required by the public convenience and necessity (Section 207). Instead, it has permitted railroads to operate intercity trucks in feeder service and service in substitution for way freight trains upon a mere showing that the railroads thereby could achieve certain economies; the Commission's decisions "construe the statute as if 'railroad convenience and necessity' rather than 'public convenience and necessity' were the standard." Mr. Justice Douglas, dissenting in the *Parker* case, *supra*, at 326 U.S. 74, 65 S. Ct. 1497. But even though its standard of pub-

lic need in the case of rail applications to perform truck service has been different (and much easier to satisfy) than has been the case in connection with applications by independent motor carriers, nevertheless the Commission has never heretofore authorized a railroad to conduct unrestricted trucking operations virtually paralleling its lines throughout its entire system.

By the departure from its policy that the decision herein represents the Interstate Commerce Commission would permit the compete integration of truck and rail transportation. Not confined to operations auxiliary to, and supplemental of, the train service of the parent railroad company, the grant of unrestricted motor-carrier operating authority would enable the railroad subsidiary to compete all out with independent motor carriers and indeed the railroad itself. The subsidiary, relying on the financial and soliciting resources of the parent railroad, would be such a potent competitor that it soon would be able to dominate the field and eventually drive the independent motor carriers from the roads. A motor industry owned or controlled by the railroads certainly was not what Congress had in mind.[8] The appellants here are not objecting to the use of trucks by the railroads in pick-up and delivery services, feeder service or service in substitution for way freight trains. They are, however, objecting to the entry of the railroads into the trucking business through subsidized motor affiliates rendering an unrestricted trucking operation such as would otherwise be rendered by the independent motor

[8] See, for example, the statement of Senator Wheeler, chairman of the Senate Committee on Interstate Commerce, relating to the language now embodied in the proviso of §5(2)(b), that "with this limitation, it will be possible for the Commission to allow acquisitions which will make for coordinated or more economical service and at the same time to protect against the monopolization of highway carriage by rail, express, or other interests." 79 Cong. Rec. 5655, April 15, 1935.

carriers. In short, our objection goes to the fundamental departure from policy which is inherent in the Commission's decision—the complete abandonment of the rule, consistently applied since motor carriers came under federal regulation, that railroad use of motor vehicles must be so tied in with their train operations as to enable the Commission to hold that the motor service authorized is for the purpose of improving the railroad's train service, as distinguished from the performance of a completely independent motor service. Appellants believe that Congress by the enactment of the National Transportation Policy and the provisions of Sections 5(2)(b) and 207 of the Interstate Commerce Act made it abundantly clear that the Commission was not empowered to authorize railroads to perform motor-carrier service completely divorced from their train operations.

The Interstate Commerce Commission by promulgating the order complained of went counter to the Congressional direction and exceeded its lawful authority.

CONCLUSION

For the foregoing reasons it is urged that jurisdiction be noted and that the judgment of the District Court be reversed and the case remanded to the District Court for disposition consistent with the Supreme Court's opinion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Peter T. Beardsley, one of the attorneys for appellants herein, and a member of the bar of the Supreme Court of the United States, hereby certify that, on the eighteenth day of May, 1956, I served copies of the foregoing document on the several parties thereto, as follows:

1. On the United States, by mailing a copy in a duly addressed envelope, with postage prepaid, to Oliver Gasch, United States Attorney for the District of Columbia, at Room 3600-A, United States Court House, Washington, D. C.; and by mailing a copy in a duly addressed envelope, with postage prepaid, to The Solicitor General, Department of Justice, Washington 25, D. C.

2. On the Interstate Commerce Commission, by mailing a copy in a duly addressed envelope with postage prepaid, to Robert Ginnane, Esq., its General Counsel, at the offices of the Commission, Washington 25, D. C.

3. On the Rock Island Motor Transit Company, Employees' Committee of Rock Island Motor Transit Co., Davenport Chamber of Commerce, et al., and Shippers' Committee, intervening defendants, by mailing copies in a duly addressed envelope, with postage prepaid, to Arthur L. Winn, Jr., Esq., their attorney, at 743 Investment Bldg., Washington, D. C.

4. On the Railway Labor Executives' Association, Brotherhood of Railroad Trainmen, and Order of Railway Conductors and Brakemen, intervening plaintiffs, by mailing copies, in a duly addressed envelope, with postage prepaid, to James L. Highsaw, Jr., their attorney, at 620 Tower Bldg., Washington, D. C.

PETER T. BEARDSLEY

APPENDIX A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN TRUCKING
ASSOCIATIONS, INC., et al.,
Plaintiffs,

v.

UNITED STATES OF AMERICA
and INTERSTATE COMMERCE
COMMISSION, et al.,
Defendants.

Civil Action No. 3171-55

MEMORANDUM OPINION

Before PRETTYMAN, Circuit Judge, and PINE and HOLTZOFF, District Judges, sitting as a statutory three-judge court.

PRETTYMAN, *Circuit Judge*: The Chicago, Rock Island and Pacific Railroad Company is a through trunk-line railroad operating, so far as is here pertinent, across the State of Iowa from Davenport to Council Bluffs. It owns a subsidiary, called herein "Motor Transit", which owns operating rights and property as a motor carrier on routes paralleling or stemming from the Railroad route. The motor carrier certificates have heretofore contained limitations requiring that the motor service be auxiliary or supplementary to the rail service, but these limitations were stayed and have never been enforced. The motor carrier applied for a certificate without the restrictions. The ap-

plication was opposed by other motor carriers. After extensive proceedings the Interstate Commerce Commission granted the application, subject to the conditions that there might be attached such reasonable terms, conditions and limitations as the public convenience and necessity might require and that all contractual arrangements with the Railroad should be reported to the Commission and be subject to its revision. Petition for reconsideration having been denied, this action to set aside the order was brought by motor carriers operating in the same general area as Motor Transit.

The nub of the controversy is in two parts, (1) whether the Commission has power to grant a certificate to a motor carrier wholly owned by a railroad without a restriction that the service shall be auxiliary or supplementary to the railroad service and (2), if so, whether the findings of the Commission to the effect that the public convenience and necessity justified the grant in the present case were supported by evidence in the record.

Two sections of the Interstate Commerce Act, as now amended, are involved. Section 5(2)(b)[1] provides that, whenever a carrier by railroad, or its subsidiary, is an applicant for approval of a transaction involving a motor carrier, the Commission shall not approve unless it finds, *inter alia*, that the transaction will enable the carrier to use service by motor vehicle to public advantage in its operations. This section governs the acquisition of motor carriers by railroads. Section 207(a) of the Act[2] provides that a certificate shall be issued to any qualified applicant therefore if it is found, *inter alia*, that the proposed service is or will be required by the present or future public convenience and necessity. This latter section (207(a)) does

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[1] Formerly Sec. 213(a)(1), amended Aug. 2, 1949, 63 STAT. 485, 49 U.S.C.A. § 5(2)(b).

[2] As enacted Aug. 9, 1935, 49 STAT. 551, 49 U.S.C.A. § 307(a).

not contain the requirement which appears in the former section (5(2)(b)) that the proposed service must be used in the operation of the railroad if a railroad is the applicant. It is agreed that the requirement that the service be used in the operation of the railroad applicant means that the service must be auxiliary or supplementary to the rail service.

Plaintiffs say that the requirement which appears in Section 5(2)(b) must be read into Section 207(a) and therefore controls in the issuance of certificates where a railroad, or its subsidiary, is the applicant. The Commission says the requirement is notably omitted from the terms of Section 207(a); that the policy, not the terms, of the requirement applies to the issuance of certificates under 207(a). It says a policy requirement is not so rigid as a flat requirement in terms but is flexible and permits a grant in exceptional circumstances where the Commission finds that the public interest, convenience and necessity require the grant.

We agree with the contention of the Commission in the foregoing respect. The case concerns the issuance of a certificate.[3] Certainly the terms of the requirement as to auxiliary and supplementary service do not appear in Section 207(a). It is equally certain that the policy of the requirement, being a basic policy in the statute, does apply. The difference between a rigid requirement and an applicable policy is one of flexibility and permits the Commission to be governed in exceptional circumstances by the needs of the public convenience and necessity.

This brings us to the second main part of the contro-

[3] See Interstate Commerce Comm'n v. Parker, 326 U.S. 60, 89 L.Ed. 2051, 65 S. Ct. 1490 (1945); United States v. Rock Island Co., 340 U.S. 419, 428, 431, 442, 95 L.Ed. 391, 71 S. Ct. 382 (1951); United States v. Texas & Pac. Co., 340 U.S. 450, 95 L.Ed. 509, 71 S.Ct. 422 (1951).

versy. The traffic consists of intrastate traffic, rail originated traffic, and interstate "peddle" traffic. The rail originated traffic goes, through natural course of events, to Motor Transit. That service is largely auxiliary or supplementary to the train service and is not actually involved in the controversy. Certificates for the intrastate traffic are issued by the State of Iowa, and that State follows the usual rule of public utility regulation that where the business makes economically feasible only one carrier it will certificate only one. It has certificated Motor Transit for the intrastate traffic along the routes here involved, and so that traffic is not actually involved in the present controversy. The so-called interstate peddle operation is one in which the motor carrier, starting with a full truckload, moves interstate and distributes that load at various points of destination; or, in reverse, a truck picks up parts of loads at various points of origin and eventually transports interstate a full truckload. This is really the traffic which is involved in the pending case. The Commission found, in effect, that this peddle operation, standing alone, is not a profitable one and that the trend of motor carriers operating in Iowa has been to refrain from rendering this service; that the business communities along the routes need this sort of service; and that Motor Transit, already having rail originated and intrastate traffic, can readily render this additional service. As a matter of fact Motor Transit has operated since its first acquisition in 1938 without the restrictions here in issue. During that period it satisfactorily performed this particular service. Actually the result of sustaining the motor carriers' position would be a privilege to them of giving the service now rendered by Motor Transit if they so desire and refusing to give it when it is economically not feasible. That would not appear to serve the public interest.

We think the position of the Commission is well taken on the evidence. Voluminous testimony was produced. The

findings are extensive. The conclusion that the grant appears necessary in the public interest is well founded. Judgement will be rendered for the defendants.

E. Barrett Prettyman

David A. Pine

Alexander Holtzoff

Dated 1/11/56

APPENDIX B

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN TRUCKING ASSOCIATIONS, INC. ET AL.,
Plaintiffs

v.

UNITED STATES OF AMERICA and INTERSTATE COMMERCE COMMISSION, ET AL.,
Defendants

CIVIL ACTION NO. 3171-55

JUDGMENT

This action, to enjoin and set aside an order of the Interstate Commerce Commission, having come on for final hearing on December 15, 1955, before a duly constituted three-judge District Court, convened pursuant to Sections 2284 and 2321-2325, Title 28, United States Code, consist-

ing of the undersigned judges; and the Court having considered the pleadings and evidence, and the briefs and arguments of counsel for the respective parties; and being fully advised in the premises; and having on January 11, 1956, filed herein its opinion holding that the order of the Interstate Commerce Commission herein assailed is valid and that judgment will be rendered for defendants; now in accordance with the said opinion,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED That the relief sought herein be, and the same hereby is, denied, and judgment be, and the same hereby is, rendered for the defendants, with costs assessed against the plaintiffs and intervening plaintiffs.

This 27th day of January, 1956.

E. Barrett Prettyman
UNITED STATES CIRCUIT
JUDGE

David A. Pine
UNITED STATES
DISTRICT JUDGE

Alexander Holtzoff
UNITED STATES
DISTRICT JUDGE

Approved as to form:

Fritz R. Kahn
Attorney for
American Trucking Associations, Inc.,
Regular Common Carrier Conference and
Motor Carrier Plaintiffs

James E. Highsaw, Jr.
Attorney for
Railway Labor Executives' Association,
Brotherhood of Railroad Trainmen and
Order of Railway Conductors and Brakemen

APPENDIX C

ORDER

At a General Session of the INTERSTATE COMMERCE COMMISSION, held at its office in Washington, D. C., on the 22nd day of November, A. D., 1954.

No. MC-29130 (Sub. No. 70)

THE ROCK ISLAND MOTOR TRANSIT COMPANY COMMON CARRIER APPLICATION

Investigation of the matters and things involved in this proceeding having been made, and the Commission, on the date hereof, having made and filed a report herein containing its findings of fact and conclusions thereon, which report is hereby made a part hereof:

It is ordered, That said application, except to the extent granted in said report, be, and is hereby, denied.

By the Commission.

GEORGE W. LAIRD,
Secretary.

(SEAL)

APPENDIX D

NATIONAL TRANSPORTATION POLICY

[*September 18, 1940.*] [*49 U. S. C., preceding §§ 1, 301, 901, and 1001.*] It is hereby declared to be the national transportation policy of the Congress to provide for fair and impartial regulation of all modes of transportation subject to the provisions of this Act, so administered as to recognize and preserve the inherent advantages of each; to promote safe, adequate, economical, and efficient service and foster sound economic conditions in transpor-

tation and among the several carriers; to encourage the establishment and maintenance of reasonable charges for transportation services, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices; to cooperate with the several States and the duly authorized officials thereof; and to encourage fair wages and equitable working conditions;—all to the end of developing, coordinating, and preserving a national transportation system by water, highway, and rail, as well as other means, adequate to meet the needs of the commerce of the United States, of the Postal Service, and of the national defense. All of the provisions of this Act shall be administered and enforced with a view to carrying out the above declaration of policy.

* * * * *

COMBINATIONS AND CONSOLIDATIONS OF CARRIERS

SEC. 5. [*As amended August 24, 1912, February 28, 1920, June 10, 1921, June 16; 1933, June 19, 1934, August 9, 1935, September 18, 1940, and August 2, 1949.*] [*49 U. S. C. § 5.*]

* * * * *

(2) (a) It shall be lawful, with the approval and authorization of the Commission, as provided in subdivision (b)—

(i) for two or more carriers to consolidate or merge their properties or franchises, or any part thereof, into one corporation for the ownership, management, and operation of the properties theretofore in separate ownership or for any carrier, or two or more carriers jointly, to purchase, lease or contract to operate the properties, or any part thereof, of another; or for any carrier or two or more carriers jointly, to acquire control of another through ownership of its stock or otherwise; or for a person which is

not a carrier to acquire control of two or more carriers through ownership of their stock or otherwise; or for a person which is not a carrier and which has control of one or more carriers to acquire control of another carrier through ownership of its stock or otherwise; or

(ii) for a carrier by railroad to acquire trackage rights over, or joint ownership in or joint use of, any railroad line or lines owned or operated by any other such carrier, and terminals incidental thereto.

* * * * *

(b) Whenever a transaction is proposed under subparagraph (a), the carrier or carriers or person seeking authority therefor shall present an application to the Commission, and thereupon the Commission shall notify the Governor of each State in which any part of the properties of the carriers involved in the proposed transaction is situated, and also such carriers and the applicant or applicants (and, in case carriers by motor vehicle are involved, the persons specified in section 205 (e)), and shall afford reasonable opportunity for interested parties to be heard. If the Commission shall consider it necessary in order to determine whether the findings specified below may properly be made, it shall set said application for public hearing; and a public hearing shall be held in all cases where carriers by railroad are involved unless the Commission determines that a public hearing is not necessary in the public interest. If the Commission finds that, subject to such terms and conditions and such modifications as it shall find to be just and reasonable, the proposed transaction is within the scope of subparagraph (a) and will be consistent with the public interest, it shall enter an order approving and authorizing such transaction, upon the terms and conditions, and with the modifications, so found to be just and reasonable: *Provided*, That if a carrier by railroad subject to this part, or any person which is controlled by such a carrier, or affiliated therewith within the

meaning of paragraph (6), is an applicant in the case of any such proposed transaction involving a motor carrier, the Commission shall not enter such an order unless it finds that the transaction proposed will be consistent with the public interest and will enable such carrier to use service by motor vehicle to public advantage in it operations and will not unduly restrain compition.

* * * *

APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

SEC. 206. [*August 9, 1935, amended June 29, 1938, September 18, 1940, September 1, 1950.*] [*49 U.S.C., § 306.*]

(a) (1) Except as otherwise provided in this section and in section 210a, no common carrier by motor vehicle subject to the provisions of this part shall engage in any interstate or foreign operation on any public highway, or within any reservation under the exclusive jurisdiction of the United States, unless there is in force with respect to such carrier a certificate of public convenience and necessity issued by the Commission authorizing such operations: *Provided, however*, That, subject to section 210, if any such carrier or predecessor in interest was in bona fide operation as a common carrier by motor vehicle on June 1, 1935, over the route or routes or within the territory for which application is made and has so operated since that time, or if engaged in furnishing seasonal service only, was in bona fide operation on June 1, 1935, during the season ordinarily covered by its operation and has so operated since that time, except in either instance as to interruptions of service over which the applicant or its predecessor in interest had no control, the Commission shall issue such certificate without requiring further proof that public convenience and necessity will be served by such operation, and without further proceedings, if application for such certificate is made to the Commis-

sion as provided in paragraph (b) of this section and within one hundred and twenty days after this section shall take effect, and if such carrier was registered on June 1, 1935, under any code of fair competition requiring registration, the fact of registration shall be evidence of bona fide operation to be considered in connection with the issuance of such certificate. Otherwise the application for such certificate shall be decided in accordance with the procedure provided for in section 207 (a) of this part and such certificate shall be issued or denied accordingly. Pending the determination of any such application the continuance of such operation shall be lawful: *And provided further*, That this paragraph shall not be so construed as to require any such carrier lawfully engaged in operation solely within any State to obtain from the Commission a certificate authorizing the transportation by such carrier of passengers or property in interstate or foreign commerce between places within such State if there be a board in such State having authority to grant or approve such certificates and if such carrier has obtained such certificate from such board. Such transportation shall, however, be otherwise subject to the jurisdiction of the Commission under this part.

(2) Unless otherwise specifically indicated in such certificate, the holder of any certificate heretofore issued under this part, or hereafter issued under this part pursuant to an application filed on or before the date on which this paragraph takes effect, authorizing the holder thereof to engage as a common carrier by motor vehicle in the transportation in interstate or foreign commerce of passengers or property over any route or routes or within any territory, may without making application under this section engage, to the same extent and subject to the same terms, conditions, and limitations, as a common carrier by motor vehicle in the transportation

of passengers or property, as the case may be, over such route or routes or within such territory, in commerce between places in the United States and places in Territories or possessions of the United States.

(3) Subject to the provisions of section 210, if any person (or its predecessor in interest) was in bona fide operation on March 1, 1950, over any route or routes or within any territory, as a common carrier engaged in the transportation of passengers or property by motor vehicle in commerce between any place in the United States and any place in a Territory or possession of the United States, and has so operated since that time (or if engaged in furnishing seasonal service only, was in bona fide operation on March 1, 1950, during the season ordinarily covered by its operations and has so operated since that time), except in either instance as to interruptions of service over which such applicant or its predecessor in interest had no control, the Commissioner shall issue a certificate authorizing such operations without requiring further proof that public convenience and necessity will be served thereby, and without further proceedings, if application for such certificate is made to the Commission as provided in paragraph (b) of this section and within one hundred and twenty days after the date on which this subparagraph takes effect. Pending the determination of any such application, the continuance of such operation without a certificate shall be lawful. Any carrier which, on the date this subparagraph takes effect, is engaged in an operation of the character specified in the foregoing provisions of this subparagraph, but was not engaged in such operation on March 1, 1950, may under such regulations as the Commission shall prescribe, if application for a certificate is made to the Commission within one hundred and twenty days after the date on which this subparagraph takes effect, continue such

operation without a certificate pending the determination of such application in accordance with section 207 (a).

(b) Application for certificates shall be made in writing to the Commission, be verified under oath, and shall be in such form and contain such information and be accompanied by proof of service upon such interested parties as the Commission shall, by regulation, require. Any person, not included within the provisions of paragraph (a) of this section, who or which is engaged in transportation in interstate or foreign commerce as a common carrier by motor vehicle when this section takes effect may continue such operation for a period of one hundred and twenty days thereafter without a certificate and, if application for such certificate is made to the Commission within such period, the carrier may, under such regulations as the Commission shall prescribe, continue such operation until otherwise ordered by the Commission.

ISSUANCE OF CERTIFICATE

SEC. 207. [*August 9, 1935.*] [*49 U.S.C., § 307.*] (a) Subject to section 210, a certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of this part and the requirements, rules, and regulations of the Commission thereunder, and that the proposed service, to the extent to be authorized by the certificate, is or will be required by the present or future public convenience and necessity; otherwise such application shall be denied: *Provided, however*, That no such certificate shall be issued to any common carrier of passengers by motor vehicle for operations over other

than a regular route or routes, and between fixed termini, except as such carriers may be authorized to engage in special or charter operations.

(b) No certificate issued under this part shall confer any proprietary or property rights in the use of the public highways.

TERMS AND CONDITIONS OF CERTIFICATE

SEC. 208. [*August 9, 1935.*] [*49 U.S.C., § 308.*] (a) Any certificate issued under section 206 or 207 shall specify the service to be rendered and the routes over which, the fixed termini, if any, between which, and the intermediate and off-route points, if any, at which, and in case of operations not over specified routes or between fixed termini, the territory within which, the motor carrier is authorized to operate; and there shall, at the time of issuance and from time to time thereafter, be attached to the exercise of the privileges granted by the certificate such reasonable terms, conditions, and limitations as the public convenience and necessity may from time to time require, including terms, conditions, and limitations as to the extension of the route or routes of the carrier, and such terms and conditions as are necessary to carry out, with respect to the operations of the carrier, the requirements established by the Commission under section 204 (a) (1) and (6): *Provided, however*, That no terms, conditions, or limitations shall restrict the right of the carrier to add to his or its equipment and facilities over the routes, between the termini, or within the territory specified in the certificate, as the development of the business and the demands of the public shall require.

SUSPENSION, CHANGE, REVOCATION, AND TRANSFER OF CERTIFICATES, PERMITS, AND LICENSES

SEC. 212. [*August 9, 1935, amended June 29, 1938, September 18, 1940.*] [*49 U.S.C., § 312.*] (a) Certificates, permits, and licenses shall be effective from the date specified therein, and shall remain in effect until suspended or terminated as herein provided. Any such certificate, permit, or license may, upon application of the holder thereof, in the discretion of the Commission, be amended or revoked, in whole or in part, or may upon complaint, or on the Commission's own initiative, after notice and hearing, be suspended, changed, or revoked, in whole or in part, for willful failure to comply with any provision of this part, or with any lawful order, rule, or regulation of the Commission promulgated thereunder, or with any term, condition, or limitation of such certificate, permit, or license: *Provided, however*, That no such certificate, permit, or license shall be revoked (except upon application of the holder) unless the holder thereof willfully fails to comply, within a reasonable time, not less than thirty days, to be fixed by the Commission, with a lawful order of the Commission, made as provided in section 204 (c), commanding obedience to the provision of this part, or to the rule or regulation of the Commission thereunder, or to the term, condition, or limitation of such certificate, permit, or license, found by the Commission to have been violated by such holder; *And provided further*, That the right to engage in transportation in interstate or foreign commerce by virtue of any certificate, permit, license, or any application filed pursuant to the provisions of section 206, 209, or 211, or by virtue of the second proviso of section 206 (a) or temporary authority under section 210a, may be suspended by the Commission, upon reasonable notice

of not less than fifteen days to the carrier or broker, but without hearing or other proceedings, for failure to comply, and until compliance, with the provisions of section 211 (e), 217 (a), or 218 (a) or with any lawful order, rule, or regulation of the Commission promulgated thereunder.

(b) Except as provided in section 5, any certificate or permit may be transferred, pursuant to such rules and regulations as the Commision may prescribe.

LIBRARY
SUPREME COURT, U. S.

No. ~~107~~ 6

IN THE

Supreme Court of the United States

October Term, 1956

AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL., *Appellants*,

v.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, *Appellees*

On Appeal from the United States District Court for the District of Columbia

REPLY TO MOTIONS TO AFFIRM

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No. 101

IN THE

Supreme Court of the United States

October Term, 1956

AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL., *Appellants*,

v.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, *Appellees*.

On Appeal from the United States District Court for the District of Columbia

REPLY TO MOTIONS TO AFFIRM

Come now appellants, American Trucking Associations, Inc., its Regular Common Carrier Conference, Iowa-Nebraska Transportation Company, Des Moines Transportation Company, Inc., Bruce Motor Freight, Inc., Western Transportation Company, McCoy Truck Lines, Inc., Brady Transfer and Storage Company, Motor Cargo, Inc., Gateway Transportation Company, and Bos Truck Lines, Inc., and in reply to the motions to affirm filed on behalf of the Interstate Commerce Commission and certain interveners in support of its order say to this Honorable Court:

PRELIMINARY

The picture of the legislative history of the 1938 amendments to the Motor Carrier Act painted in the Commission's Motion to Affirm (pp. 13-14) is grossly

inaccurate. To paraphrase the Commission's argument, Senator Shipstead attempted to have the language of the proviso of Section 213 inserted in Section 207, found that his proposed amendment was controversial, and, for this reason alone, withdrew it. And it follows, says the Commission, that Congress in 1938 thus squarely refused to require the Commission to restrict rail operation of motor vehicles to auxiliary and supplemental service when such authority is granted pursuant to an application filed under section 207, as distinguished from one filed under section 5. The Commission, of course, as pointed out in our Jurisdictional Statement, argued diametrically to the contrary before this Court in the *Rock Island case* in 1951.* Aside from this complete about-face in its interpretation of the governing statute, the Commission's argument on this point is disarmingly simple, but its simplicity is achieved only by conveniently overlooking the very significant testimony of Commissioner Joseph B. Eastman in connection with the 1938 legislation referred to, and indeed the very language of Senator Shipstead at the time he withdrew his proposed amendment. We deal now with these facets of the legislative history which the Commission's Motion to Affirm did not discuss.

1. Shipstead Amendment Was Deemed Unnecessary.

The Commission's discussion of the proposed amendment to Section 213 offered by Senator Shipstead during the 1938 hearings before a Subcommittee of the Senate Committee on Interstate Commerce on S. 3606, a bill to amend certain provisions of the Motor Carrier Act, 1935, is completely misleading. At p. 13 of its Motion to Affirm the Interstate Commerce Commission points out that Senator Shipstead proposed an amendment which would have repeated in Section 207 the proviso of Section 213

* See pp. 15-16 of our Jurisdictional Statement, filed May 22, 1956.

(now Section 5(2)(b)) limiting railroads to the rendition of only auxiliary and supplemental motor-carrier service. The Commission then goes on to say:

> . . . Senator Shipstead withdrew his amendment for the reason that it appeared that the amendment would provoke a controversy and might delay the adoption of S. 3606 at that session. Sen. Rep. 1650, 75th Cong., 3d Sess., p. 3.
>
> Thus, in 1938, with specific knowledge of the Commission's view that the proviso of Section 5(2)(b) was not controlling in determining applications for motor carrier certificates under Section 207, Congress declined to avail itself of an opportunity to write the proviso into Section 207.

To be sure, Senator Shipstead was desirous of expediting the hearings and assuring the passage of S. 3606. However, a more objective reading of the legislative history than the Commission has undertaken reveals that the primary basis for the withdrawal of his proposed amendment was the testimony of Interstate Commerce Commissioner Joseph B. Eastman, then Chairman of the Commission's Legislative Committee. Commissioner Eastman's testimony clearly indicated that a proper interpretation of the statute required the Commission to read the proviso of section 213 into section 207 whenever a railroad or rail-controlled motor carrier sought to extend its operations under the latter section. To the extent, therefore, that any conclusions can be drawn from the legislative history of the 1938 amendments to the Motor Carrier Act, it is that Congress was satisfied that the Interstate Commerce Commission would apply the restrictive proviso of Section 213 to proceedings under Section 207, as well.

The purpose of the amendment was explained in an exchange between Senator Shipstead and Commissioner Eastman, as follows:

Senator Shipstead. Well, there has been an apprehension that the things prohibited in the act, so far as purchasing and acquiring are concerned, and the denial to purchase and acquire, can be secured in this way: That they can acquire indirectly, by a certificate, what they cannot otherwise acquire.

Commissioner Eastman. I think you mean that they could acquire a motor carrier and make the requisite proof under Section 213, and then could extend the operations of that motor carrier without making any such proof. And your proposed amendment, here, is intended to correct that situation.

Senator Shipstead. Yes; it is intended to clarify what seems to be a misunderstanding as to the act. I think the intention of Congress was perfectly plain. But the question has arisen. And in order to avoid any further controversy, this amendment is introduced. It would change the whole policy of the act, if they could proceed to acquire by certificate what they are not directly permitted to do. The question is whether that should be allowed to continue. (Hearings, pp. 28 and 29)

Commissioner Eastman stated that the Commission did not oppose the amendment, but he expressed some doubt that it actually was necessary in view of the Commission's probable construction of the pertinent provisions of the Act.

Commissioner Eastman. . . . We have indicated that it seems to us consistent with the policy now reflected in section 213(a), paragraph 1; that his amendment should be added to section 207(a).

In other words, if a railroad must submit special proof that the public interest will be promoted in certain respects, before it can acquire a motor carrier, it seems entirely consistent that it shall make such special proof when it seeks to extend the operations of a motor carrier which is already under its control. So we have no objection to offer to the amendment.

As a matter of fact, I think it could be argued, with a great deal of force that in interpreting and applying the provisions of section 207(a) as it now stands, the Commission should read the act as a whole and take cognizance of this policy which is now reflected in section 213(a)(1). (Hearings, p. 27)

. . . If I had to pass on the issue now, I should say that in administering the provisions of section 207, it would be the duty of the Commission to read the act as a whole and to apply the same policy with respect to the extension of operations of a railroad-controlled motor carrier as is provided by the proviso of section 213.

Senator Johnson of Colorado: Under the present law?

Commissioner Eastman: Under the present law. (Hearings, p. 30)

The following day, relying on Commissioner Eastman's representation that his amendment was unnecessary, Senator Shipstead withdrew the amendment.

Senator Shipstead: . . . In view of the statement made by Commissioner Eastman for the Commission as to their view of this matter, and also his personal view, that he thinks the provision of this amendment is already in the law, and that——

Senator Johnson of Colorado (interposing): That is, you mean the Shipstead amendment?

Senator Shipstead: Yes; that is already in the law, and evidently he considers it unnecessary at the present time. So, in order to save the time of the subcommittee, and in order to facilitate advancing the Commission's recommendations for amendments to the Motor Carrier Act, I withdraw, for the present at least, the amendment I offered. I think we will stand on the Commission's point of view, and the personal view of Commissioner Eastman. (Hearings p. 141.)

Later that same year in the leading case of *Kansas City S. Transport Co., Inc., Com. Car. Application*, 10

M.C.C. 221, affirmed, 28 M.C.C. 5, the Commission *did* find that the principles and criteria applicable to acquisition proceedings under Section 213 were equally applicable to application proceedings under Section 207. Such construction was consistent with the Congressional intent and was neither more nor less than Commissioner Eastman led Senator Shipstead and the Subcommittee of the Senate Committee on Interstate Commerce to expect would be the Commission's construction.

2. Congress Was Advised of Restrictions.

The motion to affirm of the Interstate Commerce Commission continues, at pages 13 and 14, with the following misleading statement:

> Moreover, between the *St. Andrews Bay* case [*St. Andrews Bay Transp. Co. Extension of Operations*, 3 M.C.C. 711] and February 1940, the Commission at least twice reiterated its view that the proviso of Section 5(2)(b) was not rigidly controlling in cases under Section 207. *Interstate Transit Lines Extension—Yeakom, Nebraska*, 10 M.C.C. 665 (1938); *Santa Fe Trail Stages, Inc. Common Carrier Application*, 21 M.C.C. 725, 753 (1940). Nevertheless, in the general overhaul of the Interstate Commerce Act by the Transportation Act of 1940, Section 207(a) was not changed. We submit that this post-enactment legislative history is persuasive evidence that the Commission has interpreted correctly the will of Congress. *United States v. American Trucking Associations*, 310 U. S. 534, 549-550.

Contrary to the Commission's contention, neither the *Interstate* nor the *Santa Fe* case contains any language pertaining to the applicability of the proviso of Section 5(2)(b) to proceedings under Section 207. The requirements of the proviso that the railroad applicant's use of motor vehicles be in the public interest, enable it to use service by motor vehicle to public advantage in its operations and not unduly restrain competition are not even

mentioned. At best what these two cases stand for is the proposition that the approved motor-carrier operations need not be confined in every instance to the "territory parallel and adjacent to its rail lines" as might have been inferred from the Commission's decision in *Pennsylvania Truck Lines, Inc.—Control-Barker Motor Freight*, 1 M.C.C. 101, 113, affirmed, 5 M.C.C. 9. Thus in the *Interstate* case the Commission, Division 5, authorized service to a point "not served by either the Union Pacific Railroad Company or the Chicago and North Western Railway Company, which own and control applicant." 10 M.C.C. 667. And in the *Santa Fe* case the Commission, Division 5, approved the application of the Santa Fe's motor-carrier subsidiary even though "the applicant herein serves points not served by the Santa Fe Railway and that to some extent its extensions do not strictly parallel the Santa Fe rails."

In any event it is doubtful that Congress had any knowledge of the Commission's decisions in the *Interstate* and *Santa Fe* cases preceding the enactment of the Transportation Act of 1940. An examination of the Commission's annual reports to the Congress reveals that the Commission did not consider these cases of even sufficient importance to warrant their discussion in the reports. On the other hand a number of cases which could be cited to support the practice of the Commission of restricting railroad-affiliated motor carriers to the rendition of auxiliary and supplemental service were specifically called to Congress' attention prior to the enactment of the 1940 Act. *United States v. Rock Island Motor Transit Co.*, 340 U.S. 419, 432, 71 S. Ct. 382, 389. For example, the decision in *Kansas City S. Transport. Co., Inc., Com. Car. Application*, 10 M.C.C. 221, affirmed 28 M.C.C. 5, was discussed at page 107 of the 53rd Annual Report of the Interstate Commerce Commission, and that in *Pennsylvania Truck Lines, Inc. Control-Barker*,

1 M.C.C. 101, affirmed 5 M.C.C. 9, was discussed at pages 68 and 69 of the 51st Annual Report. Thus, if the post-enactment legislative history is persuasive evidence that the Commission properly interpreted the will of Congress, it is only because the Congress had been led to believe that it was the practice of the Interstate Commerce Commission to confine railroad operations of motor vehicles to the rendition of auxiliary and supplemental service whether pursuant to Section 213 (now Section 5(2)(b)) or Section 207.

3. Rock Island Case No Precedent for Commission's Action Here.

In support of the statement, made at page 17 of its motion to affirm, that it has been the "Commission's long-established view that in certificate cases under Section 207, the proviso of Section 5(2)(b) is a legislative policy to be taken into account, rather than a straitjacket," the Interstate Commerce Commission quoted from the *Rock Island* case, 340 U. S. 442, 71 S. Ct. 395, as follows:

> Rail affiliates have been permitted to leave the line of the railroad to serve communities without other transportation service. Those divergencies, however, are an exercise of the discretionary and supervisory power with which Congress has endowed the Commission. It is because Congress could not deal with the multitudinous and variable situations that arise that the Commission was given authority to adjust services within the limits of the Motor Carrier Act.

However, the Interstate Commerce Commission neglected to quote the next sentence which concluded the paragraph from which the quotation was taken, as follows:

> The Commission has continually evidenced, as indicated above, by opinion and certification its intention to have rail-owned motor carriers serve in auxiliary and supplemental capacity to the railroads.

It is the Commission's unwarranted and unlawful departure from this established practice that is the one major point of contention in the instant proceeding.

Even some of the cases cited by the Interstate Commerce Commission and the interveners in its behalf in support of their argument that the Commission's disposition of Motor Transit's application in this proceeding was not at variance from previous policies or practices reflect the Commission's concern lest the railroads or their affiliates operate motor vehicles in unrestricted, competitive service. Thus in *Santa Fe Trail Transp. Co. Extension—Joplin*, 44 M.C.C. 474, 481, the Commission specifically restricted certain authorized operations "to service which is auxiliary to, or supplemental of rail service" and other operations by reserving the right to impose "such specific conditions as we in the future may find it necessary to impose in order to restrict applicant's operation to service which is auxiliary to, or supplemental of, rail service." In *Santa Fe Trails Stages, Inc. —Control-Central Arizona*, 1 M.C.C. 225, 231, the Commission, Division 5, deemed the grant of authority to result in "an operation auxiliary and supplementary to its rail operations." In *Santa Fe Trail Stages, Inc., Com. Car. App.*, 21 M.C.C. 725, 753, the Commission, Division 5, said of the proposed operations, "Coordination, such as that proposed, has been advocated and encouraged by the Commission and students of the transportation problem for a long time." In *Clinton, Davenport & Muscatine Ry. Co.—Ext.—Davenport—Clinton*, 24 M.C.C. 250, 251, the Commission, Division 5, noted that "the proposed operation will take the place of an interurban electric railway freight service . . ." And finally in *Burlington Transp. Co. Ext.—Council Bluffs*, 28 M.C.C. 783, 790 the Commission, Division 5, observed that "when operations are commenced over the entire route applicant proposes to utilize the station facilities of the railroad, and coordinate the service with that of the railroad."

In only a handful of cases has the Commission even attempted to carve out exceptions to the clearly-expressed Congressional policy that railroad applicants may be authorized to conduct trucking operations only in auxiliary and supplemental service. Essentially these were uncontested proceedings before the Commission, and in not a single instance known to these appellants was the Commission's decision in such a case subjected to judicial review. These cases fall largely into three clearly-defined categories,* into which virtually all of the balance of cases cited in the motions to affirm can readily be grouped:

1. Where truck service is to be rendered to a point not on the line of the railroad and not adequately served by any other railroad or motor carrier. *Santa Fe Trail Transp. Co.—Purchase—Johnson*, 45 M.C.C. 653, 660; *Southern Pac. Transport Co.—Purchase—Reynolds*, 45 M.C.C. 617, 621; *Interstate Transit Lines, Ext.—Verdon, Nebraska*, 10 M.C.C. 665, 667; *St. Andrews Bay Transp. Co. Extension of Operations*; 3 M.C.C. 711, 716.

2. Where truck service is to be rendered over a short and insignificant extension and the existing truck service to which it will be tacked already is subject to appropriate restrictions. *Santa Fe Trail Transp. Co. Extension—New Mexico Points*, 48 M.C.C. 85; *Texas & Pac. Motor Transport Co. Ext.—Point Blue, La.*; 47 M.C.C. 425; *Rock Island Motor Transit Co. Ext.—Wellman, Iowa*, 31 M.C.C. 643.

3. Where the truck service, together with other motor carrier operations, will constitute the major portion of the applicant's business, the rail service having become unimportant. *ET & WNC Transportation Company—Control—The Inter City Trucking*

* A fourth group appears to have resulted from a tendency, corrected by the Commission's report in the *Rock Island case, supra*, at 40 M.C.C. 469, "to treat the Barker case restrictions as geographical or territorial only in their intent rather than as substantive limitations upon the character of the service which might be rendered by a railroad or its affiliate under any acquired right."

Company, 60 M.C.C. 620; *ET & WNC Transportation Co.—Purchase—Huckaber*, 56 M.C.C. 50; *Louisville, N. A. & C. R. Co.—Purchase—Meerman*, 45 M.C.C. 6.

Clearly the all-out truck operations here authorized to be conducted by Motor Transit between Chicago and Omaha, serving such additional major points as Cedar Rapids and Des Moines, cannot be squeezed into any one of the three limited categories of unrestricted motor carrier authority heretofore awarded by the Commission to rail applicants. Such a grant clearly is contrary to the very practice of the Commission established over years of carrying out the Congressional intent of limiting railroads to the rendition of auxiliary and supplementary motor service.

4. The So-Called "Restrictions" Which The Commission Has Imposed Herein Are Meaningless.

The Interstate Commerce Commission's motion to affirm, at page 22, argues that "it should not be overlooked that the Commission has imposed two conditions upon the motor carrier operating authority which it has given to Motor Transit." These conditions are meaningless; neither is adequate to insure the rendition of auxiliary and supplemental service, either at present or at some time in the future.

The first of the conditions—"that there may be attached from time to time the privileges granted herein such reasonable terms, conditions, and limitations as the public convenience and necessity may require"—virtually repeats verbatim the statutory language of Section 208(a) of the Act, 49 U.S.C. § 308(a). No greater authority is conferred by the reservation than the Commission otherwise would have. Auxiliary and supplemental restrictions could not be imposed in the future, for their imposition would be tantamount to a suspension, change or revocation of the operating authority previously granted

by the Commission. The only statutory authority for the suspension, change or revocation of a certificate is contained in Section 212(a), 49 U.S.C. § 312(a). *Watson Bros. Transportation Co.* v. *United States*, 132 F. Supp. 905, affirmed, — U.S. —, 76 S. Ct. 302. The requirement of that section that there must have been a willfull violation of the Act or a Commission order before revocation cannot be reconciled with the Congressional intent expressed in the National Transportation Policy and the proviso of Section 5(2)(b) requiring the Commission, *in any event*, to restrict motor operations by railroads or their affiliates to auxiliary and supplemental service.

The other restriction imposed—"that all contractual arrangements between the Rock Island Motor Transit Company and the Chicago, Rock Island and Pacific Railroad Company shall be reported to us and shall be subject to revision, if and as we find it to be necessary in order that such arrangements shall be fair and equitable to the parties"—is equally impotent. The Interstate Commerce Commission, at page 23 of its motion to affirm, says, "the validity of this condition was sustained in *United States* v. *Rock Island Motor Transit Co.*, 340 U.S. 419, 436-444." However, these appellants on rereading the *Rock Island* decision are unable to find any discussion of the restriction and its relationship to the limitation of railroads and their affiliates to insure the rendition of auxiliary and supplemental service. We have found however, that the Interstate Commerce Commission, in referring to the reporting requirement, has said, "In matters relating to compensation between the two companies, the railroad will in reality be dealing with itself and, so far as ultimate financial results to it are concerned, it is immaterial what these arrangements may be. . . . Such information might be important in a rate proceeding or otherwise." *Frisco Transp. Co. Extension—Joplin—Miami*, 62 M.C.C. 367, 379; *Texas &*

Pacific Motor Transport Co. Com. Car. Application, 47 M.C.C. 753, 763. The ability in the future to enforce an appropriate bookkeeping transaction, we are sure, is not what was had in mind when the Commission undertook the practice of imposing auxiliary and supplemental restrictions in response to the Congressional intent of limiting railroad motor-carrier operations. To jettison the other, more meaningful restrictions, keeping only the restriction that may or may not be of some academic interest and adding a restriction which merely repeats certain statutory authority, cannot be deemed to accomplish the legislative purpose. The restrictions imposed do not, and cannot, insure that the Chicago, Rock Island and Pacific Railway Company will use the motor-carrier authority conferred upon its subsidiary, The Rock Island Motor Transit Co., to public advantage in its train operations, and yet under the National Transportation Policy and the provisions of the Interstate Commerce Act that is the limited extent to which it properly may operate motor vehicles for hire in interstate and foreign commerce.

Wherefore, it is again urged that jurisdiction be noted and that the judgment of the District Court be reversed and the case remanded to the District Court for disposition consistent with the Supreme Court's opinion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Peter T. Beardsley, one of the attorneys for appellants herein, and a member of the bar of the Supreme Court of the United States, hereby certify that, on the tenth day of July, 1956, I served copies of the foregoing document on the several parties thereto, as follows:

1. On the United States, by mailing a copy in a duly addressed envelope, with postage prepaid, to Oliver Gasch, United States Attorney for the District of Columbia, at Room 3600-A, United States Court House, Washington, D. C., and by mailing a copy in a duly addressed envelope, with postage prepaid, to The Solicitor General, Department of Justice, Washington 25, D. C.

2. On the Interstate Commerce Commission, by mailing a copy in a duly addressed envelope with postage prepaid, to Robert Ginnane, Esq., its General Counsel, at the offices of the Commission, Washington 25, D. C.

3. On the Rock Island Motor Transit Company, Employees' Committee of Rock Island Motor Transit Co., Davenport Chamber of Commerce, et al., and Shippers' Committee, intervening defendants, by mailing copies in a duly addressed envelope, with postage prepaid, to Arthur L. Winn, Jr., Esq., their attorney, at 743 Investment Bldg., Washington, D. C.

4. On the Railway Labor Executives' Association, Brotherhood of Railroad Trainmen, and Order of Railway Conductors and Brakemen, intervening plaintiffs, by mailing copies, in a duly addressed envelope, with postage prepaid, to James L. Highsaw, Jr., their attorney, at 620 Tower Bldg., Washington, D. C.

PETER T. BEARDSLEY

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No. 6

IN THE

Supreme Court of the United States

October Term, 1957

AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL., *Appellants,*

v.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, *Appellees*

On Appeal from the United States District Court for the District of Columbia

REPLY BRIEF

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REPLY BRIEF

Appellants, American Trucking Associations, Inc., its Regular Common Carrier Conference, Iowa-Nebraska Transportation Company, Des Moines Transportation Company, Inc., Bruce Motor Freight, Inc., Western Transportation Company, McCoy Truck Lines, Inc., Brady Transfer and Storage Company, Motor Cargo, Inc., Gateway Transportation Company, and Bos Truck Lines, Inc., for their reply to briefs filed herein by the Interstate Commerce Commission, appellee, and Rock Island Motor Transit Company, intervening appellee, say to this Honorable Court:

PRELIMINARY

This reply brief is filed for four reasons: First, the Commission's brief [1] herein affords a striking contrast to its earlier interpretation of the legislative history of the Motor Carrier Act of 1935, as set forth in its brief to this Court in the *Texas & Pacific* case; second, the Commission's brief misstates our position respecting the nature of "auxiliary and supplemental" restrictions which the proviso of § 5(2)(b) requires in cases of this kind; third, the Commission's brief is misleading, however unintentionally, regarding its *present* attitude toward the Congressional policy involved; fourth, the brief of The Rock Island Motor Transit Company, one of the intervening appellees, in referring to the testimony which it relies upon to support the Commission's order, fails, in several instances, to accurately analyze such testimony, with the result that incorrect conclusions are drawn therefrom.

The Commission's Present Interpretation of the Legislative History of the Motor Carrier Act is the Exact Opposite of its Earlier Construction.

Commencing at page 26 of its brief, the Commission, in an apparent attempt to buttress its claim of unlimited discretion to determine the limits of railroad operation of motor vehicles (or indeed, whether there should be any limits at all), sets forth its *current* interpretation of the legislative history of the Motor Carrier Act of 1935. In so doing, it contends (page 26) that the legislative history shows "that no one concerned had any precise idea as to the extent to which railroads should be allowed to engage in motor transportation"; that Commissioner Eastman, in his testimony respecting the

[1] The United States has not filed a brief in this proceeding and, presumably, does not support the Commission's order before the Court.

proposed legislation "was urging further experimentation in railroad use of motor vehicles" (page 28); that "the extent to which a railroad could render motor carrier service to points which it already served by rail was nowhere defined or discussed." (pp. 30-31) The Commission then concludes (page 31) that "In any event, *the legislative history contains no suggestion that the proviso in Section 213(a)(1) was to be read into section 207 as a rigid limitation on the Commission's power to issue certificates of public convenience and necessity for new motor service.*" (emphasis theirs)

The above-cited statements and conclusion are in striking contrast to the Commission's previous interpretation of the legislative history of the Motor Carrier Act of 1935. In its brief in No. 38, *U. S.* v. *Texas and Pacific Motor Transport Company*, October Term, 1950, which involved, as does this case, a § 207 application filed by a railroad subsidiary, the Commission had this to say (pages 32-33):

> **It is apparent that, as in *Coordination of Motor Transportation, supra,* the use which Commissioner Eastman considered that the railroads could, with advantage to themselves and the public, make of motor trucks and vehicles was the auxiliary or supplemental use thereof in their own operations. He was not recommending that the railroads be allowed to go into the general motor carrier business in competition with their own operations and those of independent motor carriers. And that such was not the intent of the bill as enacted into law is shown by statements on the floor of Congress by those in charge of the legislation."** [1a]

The Commission's present interpretation of the legislative history of the Motor Carrier Act of 1935 is completely the opposite of its earlier one. Since the provi-

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[1a] The Commission then went on to cite the statements of Congressman Sadowski and Senator Wheeler referred to at pages 17-18 of our brief herein.

sions of the law remain the same, both of the Commission's interpretations cannot be correct. We respectfully submit that it was right the first time and that this Court's decision in the *Rock Island* and *Texas & Pacific* cases have affirmed its earlier construction.

The Commission's Brief Misstates Appellants' Position Respecting the Specific Restrictions Which Should be Imposed.

At various points throughout its brief, the Commission refers to what is said to be our position respecting the requirement of the proviso of § 5(2)(b) relative to so-called "auxiliary and supplemental" restrictions which must be imposed in cases of this kind. For example, at page 26 of its brief, the Commission refers to our "specific contentions" that the proviso requires the Commission to restrict railroad motor-carrier operations "to largely less-than-truckload movements to smaller points and on railroad bills of lading and at rail rates . . ." Again, at page 31, the Commission similarly characterizes our position. And at page 68 of its brief, our position is said to be one which "would preclude Motor Transit from performing motor transportation between any two points each of which has a population in excess of 6,000."

These statements completely misstate our position. What we have said, and all that we have said, is that the language of the proviso of § 5(2)(b), to use the Commission's phrase, means what it says. This being so, we contend that the Commission, in a § 5 proceeding or a § 207 case such as this, must so restrict the motor operations of the railroad or its affiliate as to enable it to find that the service by motor vehicle will be used in "its [the railroad's] operations." Once this has been done, the railroad or its affiliate is, of course, free, within the limits specified, to transport freight, in small or large volume, between the points, whatever their population, within the territory involved, and these appellants have

never contended otherwise. Thus, under the certificate issued September 11, 1951, intended to restrict the rail subsidiary to auxiliary and supplemental operations, and set forth in the map preceding page 1 of our brief, Motor Transit could have performed service between Chicago and Iowa City or between Chicago and Cedar Rapids. Since the Commission itself shows the population of Iowa City to be 27,212 and Cedar Rapids to be 72,296 (see map appended to its brief), it is idle for it to argue, as it does, that our position would preclude "Motor Transit from performing motor transportation between any two points each of which has a population in excess of 6,000.". We hasten to add that under a prior or subsequent rail-haul restriction, which we urge that the Commission be required to impose, the railroad's motor subsidiary would be able to transport traffic in unlimited volume, between any points in its territory, provided only that the traffic had previously moved in rail service or was destined to so move after completion of the motor portion of the through journey.

In addition, the Commission itself, not these appellants, is responsible for the historical development of conditions which "restrict" railroad motor operations to traffic which moves on rail billing at rail rates. To describe these conditions as "restrictions" is in reality a misnomer. We say this because, where there is any difference in the rate levels of less-than-truckload as against less-than-carload shipments, the rail rate is invariably lower. Thus, railroad motor affiliates often have a rate advantage over independent motor carriers by virtue of the so-called restriction which ties them to rail rates.

In addition to what we have said regarding the Commission's misstatements relative to our position in respect to the imposition of auxiliary and supplemental restrictions, one other facet of the Commission's brief on this phase of the case deserves mention. It will be

noted that the Commission lays great stress upon the fact that its order herein allows the rail subsidiary to perform unrestricted motor carrier service "only to points on or near the rail line." See, e.g., pages 19 and 25 of the Commission's brief. Thus the Commission, for all intents and purposes, argues that a condition which merely limits otherwise unrestricted motor service performed by a railroad or its affiliate to points "on or near the rail line," will conform to the Congressional policy evidenced by the proviso of § 5(2)(b). This, in turn, brings the attitude of the Commission into clear focus. It is no longer concerned that proposed railroad motor carrier operations will, in the language of the *Barker* case, 5 M.C.C. 9, 11, "compete with an established motor carrier." It continues to be much concerned, however, with limiting the railroad motor operations authorized herein to points on or near the rail line. Why? Because, we submit, as stated in *Barker, supra,* should such motor operations not be so limited, they would "invade to a substantial degree a territory already adequately served by another rail carrier." Thus the Commission abandons its obligation to prevent undue encroachment by railroads upon the independent motor carrier field, while at the same time continuing its efforts to prevent rail invasion of another railroad's operating territory through the use of motor vehicles.

In Its Present Administration of the Law, The Commission Largely Ignores the Statutory Prohibition Against Unrestricted Motor-Vehicle Operations.

The Commission's brief goes to great lengths to stress that only the existence of what are said to be exceptional circumstances[2] led it to authorize Motor Transit to perform all-out truck service completely divorced from

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[2] Characterized, at page 11 of its brief, as "an unusual or special need" for the performance of unrestricted truck service by the rail subsidiary.

its rail parent's train operations. In so doing, it emphasizes the fact that its order herein "is based upon Section 207(a) which . . . does not contain the limitations upon motor carrier operations by railroads which the proviso of Section 5(2)(b) imposes where a railroad or its affiliate requires [sic] an existing motor carrier operation." Although the corollary of this argument would seem to be that the Commission is bound, in Section 5 cases, to limit rail operation of trucks to coordinated rather than unrestricted service, nevertheless the Commission insists that even there it has discretion to ignore the positive mandate of the statute in "unusual or special cases." Parenthetically, if, as the Commission insists at page 20 of its brief, statutes "mean what they say" we are at a loss to understand how it can, at one and the same time, find so much room for discretion in language which states that it "shall not" issue an order approving rail operation of motor vehicles unless certain conditions,[3] not satisfied by its order herein, are met.

In any event, the rationale of the Commission's argument respecting this phase of the case is that the Commission has taken great care, in both Section 5 and 207 cases, to assure that the unrestricted service authorized to be performed by railroads or their affiliates has, in every instance, been allowed only "to meet an unusual or special public need for service which other motor carriers were not providing." Commission brief, page 12. Whether or not that allegation correctly sums up the infrequent past departures from the Congressional policy cited, we respectfully submit that it is simply not the fact with respect to the Commission's present administration of the law.

The, to us, appalling fact is that in its *current* administration of the law the Commission, by and large, treats

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[3] i.e., that the motor operations will be used "to public advantage in its [the parent railroad's] operations."

the mandate of Section 5(2)(b) in a most cavalier manner, whether the request of the railroad to perform unrestricted truck service is filed pursuant to Section 5 or 207. It has recently, in both types of cases, ignored the language of the proviso without even an intimation in the record that there is "an unusual or special public need for service which other motor carriers were not providing." In *Burlington Truck Lines—Purchase—Arrow Freight Lines*, a Section 5 case, the Commission's Examiner, in recommending that the application be denied, stated:

> There are no special, or unusual, circumstances shown to be present in this proceeding which would warrant a departure from the policy stated in *Rock Island Motor Transit Co.—Purchase—White Line*, 40 M.C.C. 457, and 55 M.C.C. 567, requiring that every grant of authority to a railroad, or a railroad affiliate, of rights to operate as a motor carrier of property, or to acquire such rights by purchase, or otherwise, should be so conditioned as definitely to limit the future service by motor vehicle to that which is auxiliary to, or supplemental of, rail service. Such a limitation does not permit all motor carrier service or the interchange of freight with other motor carriers under joint rates. See also *Rock Island Motor Transit Co.—Purchase—Riley*, 45 M.C.C. 544. Under the circumstances, the transaction may not properly be approved on the basis of the evidence submitted on the present record.

Despite the absence noted by the Examiner of any record evidence indicating any "unusual" circumstances which would justify a departure from the policy which the Commission's brief so stoutly maintains it strives to uphold, the Commission's division 4 abruptly reversed the Examiner's recommended order and authorized the purchase without restrictions.[4] To be sure, the Division

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[4] Docket No. MC-F-6345, *Burlington Truck Lines—Purchase—Arrow Freight Lines*, decided June 21, 1957. Pending before the entire Commission on reconsideration.

paid lip service to the Congressional policy by stating that "considering all the evidence, we are of the opinion that an exception to the principles discussed in the *Rock Island* case is warranted." However, the report nowhere indicates that the independent motor carriers in the area have in any way failed to render an adequate service. Other recent examples of Commission decisions which demonstrate that its current administration of the law falls far short of the claimed consistent adherence to the Congressional policy, are:

Docket No. MC-78787 (Sub-No. 34)—*Pacific Motor Trucking Co. Ext.—Oregon:* In this proceeding, a § 207 case, the entire Commission, by report and order dated May 8, 1957, authorized the wholly-owned subsidiary of the Southern Pacific Railroad to perform unrestricted motor *contract* carrier service from General Motors Chevrolet plants in Oakland, California, to all points in Oregon which are stations on the line of its parent railroad. By order of August 16, 1957, reconsideration was granted, and the matter is now pending.

Docket No. MC-F-6415—*Howard Terminal—Control—El Dorado Motor Transportation Co.* By report and order dated May 23, 1957, the Commission, Division 4, approved the purchase by Howard Terminal, which controls the Howard Terminal Company, a railroad, of control of El Dorado, a motor carrier, and, through the acquisition, the performance of unrestricted truck operations in the Sacramento area.

In none of the cases just cited are the Commission's or its Examiners' reports supported by record evidence that the authority granted or recommended is required by "an unusual or special public need for service which other motor carriers were not providing," and the reports themselves contain no such finding. This is likewise true of the Examiners' decisions referred to immediately below.

The Commission's examiners have been quick to appreciate its changed attitude respecting adherence to the Congressional policy embodied in § 5(2)(b), and have reacted accordingly. For example, in Docket No. MC-78787 (Sub-No. 37)—*Pacific Motor Trucking Co. Ext.—Automobiles—California Assembly Plants to 7 Western States,* the examiner, by report served June 20, 1957, has recommended that the Southern Pacific Railroad's wholly-owned subsidiary be granted unrestricted motor contract carrier authority to transport new automobiles, trucks and buses, from General Motors plants at Los Angeles and Oakland, California, to all points on the rail parent's lines in the States of Arizona, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, and Washington. And in Docket No. MC-F-6528—*Burlington Truck Lines, Inc.—Purchase—Love Transfer,* the examiner, by report served August 16, 1957, has recommended that the subsidiary of the Burlington Railroad be authorized to purchase, without restriction, the operating rights of Love, an independent motor carrier.

Some of the cited cases involved little or no protest to the application by independent motor carriers but that does not excuse the Commission's failure to adhere to the Congressional policy, for it is the Commission, and no one else, which is required "to guard against the danger of the development of a transportation monopoly." *I.C.C.* v. *Parker,* 326 U.S. 60, 73.

Regardless of the justification, or lack thereof, for the Commission's occasional past failure to adhere to Congressional policy, its present day-to-day unwillingness, generally speaking, to conform to the mandate of § 5(2)(b), emphasizes the need, adverted to at pages 71-76 of our original brief herein, for reexamination of the *Parker* case and the corrective action by this Court requested therein.

Rock Island Motor Transit's Brief Fails to Accurately Analyze the Testimony of Many Witnesses.

Intervenor-Appellee, The Rock Island Motor Transit Company, commencing at page 23 of its brief, seeks to refute the appellants' contention "that the District Court erred in failing to set aside the Commission's order for lack of evidentiary support as to the 'major points.'". It attempts to do this by summarizing the testimony of 40 shipper or chamber of commerce witnesses from such "major points" as Chicago, the Quad-City area (Davenport and Bettendorf, Iowa, and Rock Island, Moline and East Moline, Illinois), Iowa City, Cedar Rapids, Des Moines, Omaha and Council Bluffs. What is not clear from a reading of these summaries is that the testimony related almost completely to the need for service to or from the smaller points lying intermediate to the "major" points. Insofar as their testimony touched on the present availability of service being rendered by independent motor carriers between the larger distribution centers, it would more accurately be summarized as follows:

Mr. D. R. MacDonald of Chicago testified that some motor carriers were rendering excellent service from Chicago to Iowa destinations on U.S. Highway 6. (R. 269-270). The brief of The Rock Island Motor Transit Co., at page 24, summarizes the witness' testimony to convey the contrary impression, stating in part, "Other carriers had failed to respond to calls for pick-up service for outbound shipments, while Rock Island Motor Transit had responded to all calls promptly in a three months' period." In fact, the witness testified that, in addition to Rock Island Motor Transit Company, Iowa-Nebraska Transportation Company and Des Moines Transportation Company responded on the same day to telephoned requests for pickups; other motor carriers, such as Bos Truck Lines, Inc., Brady Motorfrate, Inc., McCoy Truck Lines, Inc., and Watson Brothers Transportation Com-

pany, responded the same day or the day following in most cases. (R. 270-271).

Mr. B. J. Lussa of Chicago testified that he was satisfied with the service he has received from the Rock Island Motor Transit Company from Chicago to Iowa destinations (R. 278) and as a matter of fact has not used any other carrier to these particular points. (R. 280).

Mr. R. Ozinga of Chicago testified that, while Rock Island Motor Transit Company was the most reliable carrier to "the so-called smaller towns or non-key-point towns" (R. 282-283), he uses Takin Brothers Freight Line, Inc., to Cedar Rapids and Iowa City, Rock Island Transfer and Storage Company to the Tri-City area (Davenport, Rock Island and Moline), Prucka Transportation, Inc., to Council Bluffs and Des Moines Transportation Company to Des Moines. (R. 285).

Mr. D. R. Hoppe of Chicago testified that he was satisfied with the service he has received from the Rock Island Motor Transit Company from Chicago to Iowa destinations and has had no occasion to use any other common carrier by motor vehicle. (R. 289).

Mr. A. J. Maurer of Chicago testified that there is adequate truck service from Chicago to the larger points. (R. 247). Twenty-two motor carriers operate between Chicago and Davenport; ten serve Iowa City; at least four serve Grinnell; at least nine serve Newton; and at least six serve Atlantic. (R. 251-256). He thought there probably was no demand for any additional motor carrier service between Chicago and Omaha. (R. 253).

Mr. H. H. Stevens of Moline testified that he has "a lot of lines" and "can get service" to such points as Des Moines and Omaha. (R. 468-469).

Mr. P. E. Gans of Moline qualified his statement that he knew of no motor carrier—other than Rock Island

Motor Transit Company—rendering service from the Tri-City area (Davenport, Rock Island and Moline) to a number of Iowa destination points by limiting his observations to carriers "with complete terminal facilities in the Tri-Cities." He further qualified his statement by acknowledging that he shipped assembled farm implements by motor common carriers other than Rock Island Motor Transit Company. (R. 263-264).

Mr. F. J. Schunter of Moline testified that he was satisfied with the service of the Rock Island Motor Transit Company and has had no occasion to make inquiry whether or not there might be other service available. (R. 327).

Mr. C. H. Pahl of Rock Island testified that he was unable to recall the name of any motor carrier which refused to accept shipments from Rock Island to any Iowa destination point. (R. 884-885).

Mr. H. C. Woodard of the Tri-City area testified that he was not familiar with the operations of motor truck operators operating between the Tri-City area, Des Moines and Omaha; he knew neither their identity nor their general operations. (R. 394-395).

Mr. G. M. Cummins of Davenport testified that there are 27 carriers rendering daily service between Chicago and the Tri-City area (Davenport, Rock Island and Moline). From Davenport to such points as Grinnell, Newton, Council Bluffs and Des Moines interstate motor carrier service other than that of the Rock Island Motor Transit Company was available. (R. 234).

Mr. J. A. Gould of Muscatine testified that he has used the services of Poole Transfer, Inc., as well as those of the Rock Island Motor Transit Company. (R. 1265).

Mr. R. L. Sweany of Muscatine testified that the major motor carrier in Muscatine is Poole Transfer, Inc., serv-

ing Minneapolis and Chicago daily. In addition to the Rock Island Motor Transit Company, the Burlington Transportation Company (R. 1254), Green Transportation Lines, Inc., Hedrick Motor Freight Line, and Western Transportation Company serve Muscatine. (R. 1259-1260).

Mr. H. P. Jacobs of Iowa City testfied that truck lines other than Rock Island Motor Transit Company operate between Chicago and Iowa City. (R. 487). Watson Brothers Transportation Company as a matter of fact maintains an office at Iowa City. (R. 490).

Mr. J. H. Nesmith of Iowa City testified that he generally uses only the Rock Island Motor Transit Company on out-of-state shipments. (R. 492).

Mr. C. H. Swanholm of Iowa City testified that, in addition to the Rock Island Motor Transit Company, he has used Poole Transfer, Inc., Merchants Transfer and Storage Company, Watson Brothers Transportation Company and other carriers for interstate shipments. (R. 495).

Mr. T. Slager of Iowa City testified that there are a number of trucking companies serving Iowa City. (R. 1144). In addition to the Rock Island Motor Transit Company, he has used Western Transportation Company and Watson Brothers Transportation Company. (R. 1144-1146).

Mr. J. P. Wegmuller of Iowa City testified that he has used the services of motor carriers other than the Rock Island Motor Transit Company. (R. 1139).

Mr. R. L. Gage of Iowa City testified that its trucking facilities is one of the outstanding attractions of Iowa City. (R. 485).

Mr. Harold F. Eucoldt of Cedar Rapids testified that there is a substantial number of motor carriers operat-

ing between Cedar Rapids and such points as Chicago, the Tri-City area and Omaha. (R. 1121). Fifteen carriers operate between Chicago and Cedar Rapids alone. (R. 1124).

Mr. L. L. Johnson of Cedar Rapids testified that he could not name any town where he had an account that could not be served out of Chicago with truckload lots. (R. 1114). He has had no occasion to make any investigation as to whether any transportation, other than The Rock Island Motor Transit Company, is available from Chicago to certain Iowa destination points. (R. 1115).

Mr. M. F. Zimmerman of Grinnell testified that he had used the services of the Rock Island Motor Transit Company almost exclusively for the preceding five years. (R. 714).

Mr. E. Mathews of Grinnell testified that he has received shipments from Iowa-Nebraska Transportation Company as well as the Rock Island Motor Transit Company. (R. 717).

Mr. B. Ritter of Grinnell testified that he has received shipments from the Watson Brothers Transportation Company, Nebraska Motor Transport, Inc., and McCoy Truck Lines, Inc., as well as the Rock Island Motor Transit Company. (R. 734).

Mr. D. H. McKean of Grinnell testified that Western Transportation Company maintains a full-time terminal agent at Grinnell. (R. 749). The Iowa-Nebraska Transportation Company and the Des Moines Transportation Company as well as Western and Rock Island Motor Transit Company, have delivered freight to him. (R. 750).

Mr. P. Brink of Grinnell testified that the Iowa-Nebraska Transportation Company, the Western Transportation Company and the Des Moines Transportation Company, in addition to the Rock Island Motor Transit Com-

pany, serve Grinnell (R. 755), and he has received shipments from these carriers. (R. 758).

Mr. L. V. Phelps of Grinnell testified that he has received truckload shipments from Chicago via American Transit Line. (R. 726-727). He has received less-than-truckload shipments from Iowa-Nebraska Transportation Company and he has received shipments from Pasch Cartage Company which does local cartage work for Keeshin Motor Express Company and Des Moines Transportation Company (R. 728).

Mr. F. Triggs of Des Moines testified that a number of motor carriers, including Des Moines Transportation Company, Watson Brothers Transportation Company and Western Transportation Company, are available for transporting shipments between Chicago and Des Moines. (R. 1295).

Mr. L. Lomberto of Des Moines testified that he has used the Des Moines Transportation Company, Western Transportation Company and quite a few other carriers on inbound shipments from the East. (R. 1304).

Mr. L. Brody of Des Moines testified that, in addition to the Rock Island Motor Transit Company, Watson Brothers Transportation Company has transported shipments for his concern. (R. 1312).

Mr. R. M. Griffith of Des Moines testified that he had no difficulty finding carriers to handle shipments in excess of 5,000 pounds after that weight limitation was imposed upon the Rock Island Motor Transit Company. (R. 1314).

Mr. C. A. Hausen of Des Moines testified primarily as to the smaller intermediate points. (R. 1318).

Mr. B. Robinson of Atlantic testified that he has received inbound shipments from the Iowa-Nebraska Transportation Company, as well as the Rock Island Motor Transit Company. (R. 542).

Mr. M. Turner of Atlantic testified that Watson Brothers Transportation Company served Atlantic daily and that in addition Iowa-Nebraska Transportation, as well as the Rock Island Motor Transit Company, serves the area. (R. 935).

Mr. O. A. Meredith of Atlantic testified that, while his firm specifies the Rock Island Motor Transit Company on all shipments, it has had service from Watson Brothers Transportation Company, Iowa-Nebraska Transportation Company, Bos Truck Lines, Inc., and possibly others. (R. 533).

Mr. D. C. Mitchell of Atlantic testified that he was able to find other carriers to handle shipments in excess of 5,000 pounds after that weight limitation was imposed upon the Rock Island Motor Transit Company. (R. 549, 551).

Mr. G. Ball of Council Bluffs testified that he has received satisfactory service on shipments from Chicago to Council Bluffs from Prucka Transportation, Inc. and On-Time Truck Line. He has used Watson Brothers Transportation Company, Darling Transfer and Transamerican Freight Lines, Inc., as well as the Rock Island Motor Transit Company, on outbound shipments from Council Bluffs. (R. 1008).

Mr. P. E. Seastedt of Omaha testified that on outbound service from Omaha, the service in which he was most interested, he had the services of two or more carriers available to some points in Iowa on U.S. Highway 6; to other points only Rock Island Motor Transit Company renders a service. He hasn't had "too great a complaint" about the service rendered by the other motor carriers. (R. 1011-1012). Since the 5,000-pound weight limitation was imposed on the Rock Island Motor Transit Company, he has used other carriers for volume shipments. (R. 1013).

Mr. J. J. Hartnett of Omaha testified that on shipments from Omaha to cities such as the Tri-Cities, Ottumwa, Cedar Rapids, Minneapolis and Des Moines he has the services of a number of motor carriers available to him and that he has used most of them, as well as the Rock Island Motor Transit Company, to those points. (R. 1005).

The testimony of these forty witnesses, as well as the testimony of the independent motor carriers themselves (as summarized at pages 88-95 of the appellants' brief), is conclusive on the point that the record lends no support to a finding that the public convenience and necessity require the service of the Rock Island Motor Transit Company between the major points referred to. At best the testimony reveals a shipper preference for the service of the Rock Island Motor Transit Company, in several instances coupled with lack of knowledge of, rather than dissatisfaction with, the services of independent motor carriers. But the Commission itself has recognized that a mere preference for the services of an applicant does not satisfy the applicant's burden of proving his services are *required* by the public convenience and necessity. As was pointed out at page 53 of the appellants' brief, "there must be an affirmative showing not only that a common carrier service is required in the convenience of the public but also that it is a necessity, and . . . the latter element includes a showing that present facilities are inadequate." *Hudson Transit Lines* v. *United States*, 82 F. Supp. 153, 157, affirmed *per curiam*, 338 U. S. 802, 70 S. Ct. 59. Here no showing of inadequate service between such points as Chicago, Cedar Rapids, Council Bluffs, Des Moines, Iowa City, the Quad-City area, and Omaha can be made; the independent motor carriers are ready, willing and able to transport—and, in fact, are presently transporting—all freight tendered them between these points.

One other erroneous impression conveyed by the brief of the Rock Island Motor Transit Company is of sufficient importance to call for clarification. At page 45 of its brief, the intervenor-appellee states:

> . . . It is charged that at many points where no Motor Transit representative is stationed, railroad agents act for it. This is contrary to the record and is supported only by an inadvertent statement by one witness at Ladora, Iowa, (R. 455-456) who apparently was referring to rail-billed traffic. The Commission made no finding that the rail depot agent assumes to act for Motor Transit with respect to shipments moving on motor carrier billing. The record is just the reverse.

Lest there be any doubt what the record contains with respect to our allegation that at many points where no Motor Transit representative is stationed the railroad depot agent assumes his functions, we shall quote verbatim from a few pertinent sections of the record. First, as to the claimed inadvertent statement attributed to Mr. Victor Hess, the witness from Ladora, the record shows the following colloquy:

> By Mr. Fowler,
> Q. Does the Rock Island railroad have a station agent at Ladora?
> A. Yes.
> Q. Does the Rock Island agent handle matters for you in connection with your dealings with Rock Island Motor Transit?
> A. Yes. (R. 455).

Witness Graham Godby of Dexter, Iowa, testified as follows on cross-examination:

> Q. Who do you pay your freight bills to? Your motor freight bills?
> A. You mean the Rock Island Motor?
> Q. Yes.
> A. You mean the person himself?
> Q. Well, do they have an agent there?

A. They do at the station, yes. That is the person we pay.

Q. You pay at the station?

A. Yes.

Q. And is it the railroad station agent that you pay?

A. Yes.

Q. Regardless whether it is motor truck billed freight or rail-billed freight?

A. Yes.

Q. If you have a claim to make, do you see that same station agent to handle it?

A. Yes.

Q. Does he process that claim?

A. Yes.

Q. And he does that regardless whether it is rail freight or motor freight?

A. Yes. (R. 1188-1189).

Witness G. M. Hartline at Altoona, Iowa, testified on cross-examination as follows:

Q. The only representative the railroad or the motor company have in Altoona is the depot agent?

A. The depot agent, yes, sir.

Q. And if you have any problems in connection with that [truck service of Motor Transit], you would talk to him about it?

A. Yes. (R. 865).

Witness Louis C. Willenbrock of Mitchellville testified on cross-examination as follows:

Q. . . . Now, you mentioned that you go to the depot and tell him to have the driver stop. Who do you mean by "him"?

A. The depot agent.

Q. Is that the rail depot agent?

A. That is right.

* * * *

Q. All of your dealings are direct with the station agent?

A. That is right. (R. 829).

The foregoing quotations from the record more accurately reveal just what the testimony relative to Motor

Transit's use of the railroad's depot agents was than can any summation by counsel. The record clearly shows that at many of the points involved the shippers utilizing the facilities of Motor Transit deal with the local depot agents of the parent railroad company. There can be no questioning that the presence of these representatives is of material benefit to Motor Transit and that Motor Transit thereby enjoys a distinct advantage that the independent motor carriers competing with it do not have.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Peter T. Beardsley, one of the attorneys for appellants herein, and a member of the bar of the Supreme Court of the United States, hereby certify that, on the sixteenth day of October 1957, I served copies of the foregoing document on the several parties herein as follows:

1. On the United States, by mailing a copy in a duly addressed envelope, with postage prepaid, to Oliver Gasch, United States Attorney for the District of Columbia, at Room 3600-A, United States Court House, Washington, D. C., and by mailing a copy in a duly addressed envelope, with postage prepaid, to The Solicitor General, Department of Justice, Washington 25, D. C.

2. On the Interstate Commerce Commission, by mailing a copy in a duly addressed envelope with postage prepaid, to Robert Ginnane, Esq., its General Counsel, at the offices of the Commission, Washington 25, D. C.

3. On the Rock Island Motor Transit Company, intervening defendant, by mailing a copy in a duly addressed envelope with airmail postage prepaid, to A. B. Howland, Esq., its attorney, at 500 Bankers Trust Building, Des Moines 9, Iowa.

4. On the Employees' Committee of Rock Island Motor Transit Co., Davenport Chamber of Commerce, et al., and Shippers' Committee, intervening defendants, by mailing a copy in a duly addressed envelope with airmail postage prepaid, to D. C. Nolan, Esq., their attorney, at Suite 405, Iowa State Bank Bldg., Iowa City, Iowa.

5. On the Railway Labor Executives' Association, Brotherhood of Railroad Trainmen, and Order of Railway Conductors and Brakemen, intervening plaintiffs, by mailing copies, in a duly addressed envelope with post

age prepaid, to James L. Highsaw, Jr., their attorney, at 620 Tower Bldg., Washington, D. C.

6. On the National Industrial Traffic League, *amicus curiae*, by mailing a copy in a duly addressed envelope, with airmail postage prepaid, to John S. Burchmore, Esq., its attorney, at 2106 Field Building, Chicago 3, Illinois.

PETER T. BEARDSLEY

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No. 6

IN THE

Supreme Court of the United States

October Term, 1957

AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL., *Appellants*,

v.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, *Appellees*

On Appeal from the United States District Court for the District of Columbia

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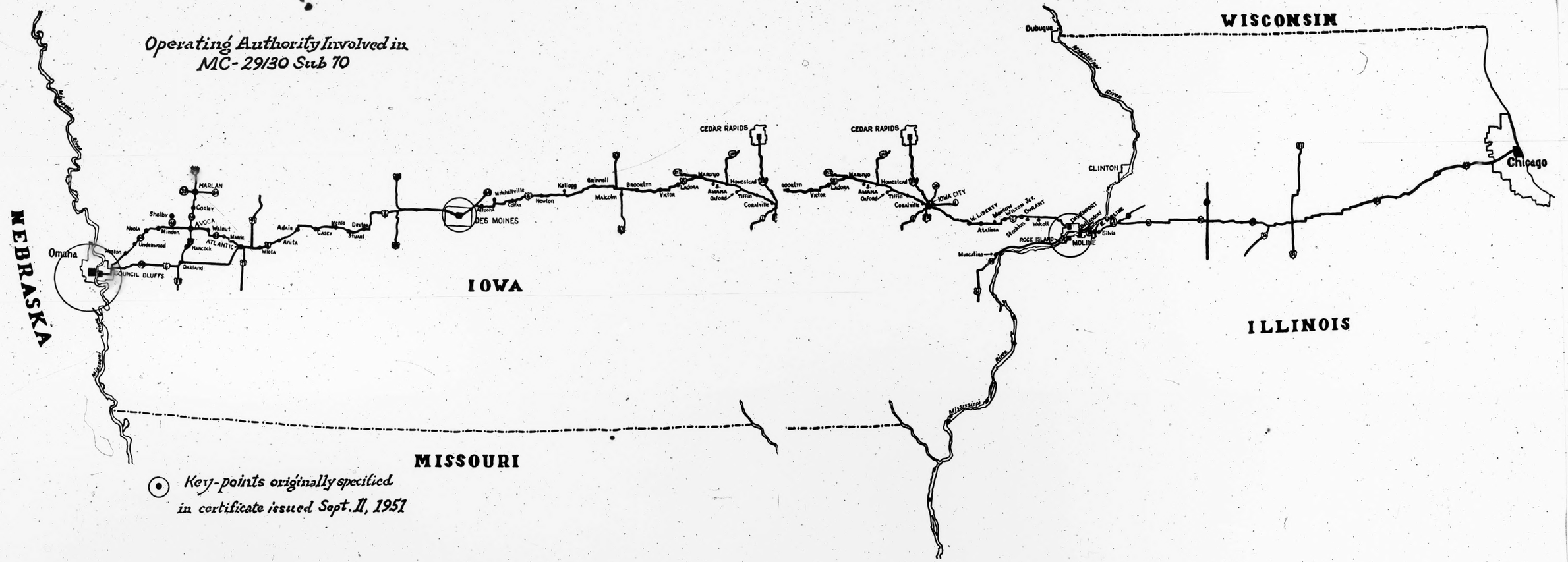
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Bettendorf
Milan
Silvis
ROCK ISLAND
MOLINE
Key-points originally specified
in certificate issued Sept. 11, 1951

No. 6

IN THE

Supreme Court of the United States

October Term, 1957

AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL., *Appellants,*

v.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, *Appellees*

On Appeal from the United States District Court for the District of Columbia

APPELLANTS' BRIEF

OPINION BELOW

The opinion of the United States District Court for the District of Columbia (R. 192) is reported at 144 F. Supp. 365. The report of the Interstate Commerce Commission (R. 93) appears at 63 M. C. C. 91.

JURISDICTION

The judgment of the District Court (R. 195) was entered on January 27, 1956, and notice of appeal (R. 197) was filed on March 23, 1956. Probable jurisdiction was noted by this Court on October 8, 1956. (R. 204), 352

U. S. 816, 77 S. Ct. 36. Jurisdiction to review the decision on direct appeal is conferred upon this Court by Sections 1253 and 2101(b) of the Judicial Code, 28 U. S. C. §§1253 and 2101(b).

STATUTES INVOLVED

The National Transportation Policy, 49 U.S.C. preceding §1, and Sections 5(2)(a), 5(2)(b), 206, 207, 208(a) and 212 of the Interstate Commerce Act, as amended, 49 U.S.C. §§5(2)(a), 5(2)(b), 306, 307, 308(a) and 312, are set forth verbatim in Appendix A hereof.

QUESTIONS PRESENTED

1. Whether the record before the Interstate Commerce Commission in Docket No. MC-29130 (Sub-No. 70), *The Rock Island Motor Transit Company Common Carrier Application,* fails to support the Commission's report and order authorizing unrestricted motor-carrier operations by the Rock Island Motor Transit Company, a wholly-owned subsidiary of the Chicago, Rock Island and Pacific Railroad Company, between the points directly involved, as well as between points throughout a much broader territory not directly involved in the proceeding before the Commission?

It is appellants' contention that the record before the Commission is totally devoid of evidence to support a need for service between the major points involved.

2. Whether, in any event, the Interstate Commerce Commission, in authorizing the performance of motor-carrier service by railroads or their affiliates, is required by the provisions of the Interstate Commerce Act and the National Transportation Policy to limit the motor service to be rendered to that which is auxiliary to or supplemental of the rail service of the parent railroad?

It is appellants' contention that the Congressional policy permits no exceptions, and that the Commission has no discretion to deviate therefrom.

3. Whether the Interstate Commerce Commission, after authorizing the performance of restricted motor-carrier service by a railroad affiliate over routes acquired by purchase under Section 5 of the Interstate Commerce Act, 49 U. S. C. §5, lacks the power to void such restrictions and authorize the performance of an unlimited motor-carrier service over the same routes through approval of an application subsequently filed by the same rail affiliate under Section 207 of the Interstate Commerce Act, 49 U. S. C. §307?

The last question was dealt with in complete detail, both in brief and on oral argument before the lower court, by counsel for the rail labor groups, intervening plaintiffs below. As they can be expected to develop it fully before this Court, these appellants will not further treat with it herein.

STATEMENT

This is the first case, in the more than twenty years of federal regulation of motor carriers, in which this Court has been called upon to determine the perimeter of the Commission's power to authorize the performance of unlimited truck service by a railroad or its subsidiary. In all previous cases, with unimportant exceptions, the Commission has restricted the authority granted in order to assure that the motor service rendered would be limited to operations auxiliary to, or supplemental of, the train service of the railroad. The case at bar represents, for the first time, a complete abandonment by the Commission of its duty to protect the public interest in an independent motor-carrier industry through the imposition of restrictions upon rail operation of motor vehicles. And in so doing, as will be more fully developed

later, the Commission has abruptly reversed its interpretation of the statutory safeguards enacted by Congress to assure the continued development and preserve the inherent advantages of an independent motor-carrier system. This violation of Congressional policy creates the novel question here presented. Not only does it do violence to the Commission's consistent interpretation, but it overrules what this Court decided, at least inferentially, in the *Rock Island* and *Texas and Pacific* cases, *infra.*

Much of the history of this proceeding was recited by this Court in its 1951 decision in the *Rock Island* case, *infra,* at 340 U. S. 421-430, 71 S. Ct. 385-389. Its repetition herein is for the sake of convenience and continuity.

The Commission Approved the Purchase of White Line for Restricted Operations.

The controversy herein can be said to have originated twenty years ago, when the Chicago, Rock Island and Pacific Railroad Company, a common carrier by railroad subject to part I of the Interstate Commerce Act, 49 U. S. C. §1 *et seq.,* became interested in conducting motor-carrier operations paralleling its lines between Chicago, Illinois, and Omaha, Nebraska. Through a subsidiary company, The Rock Island Motor Transit Company, the railroad on October 13, 1937, filed an application with the Interstate Commerce Commission for authority under Section 213 (now Section 5 of the Interstate Commerce Act, 49 U. S. C. §5) to purchase certain operating rights and property of White Line Motor Freight Company, Inc., and White Line Trucking Company, motor carriers of property subject to part II of the Act, 49 U.S.C. §301 *et seq.,* hereinafter collectively called White Lines. In its report conditionally approving the purchase, *Rock Island M. Transit Co.—Purchase—White Line M. Frt.,* 5 M.C.C. 451, dated April 1, 1938, the Commission, Division 5, after referring to the considerable testimony that had been of-

fered to show how the correlation of truck-and-rail service over the routes would be effected, found, as required by statute (formerly §213, now §5(2)(b)), that the purchase would promote the public interest by enabling the railroad to use service by motor vehicle to public advantage in its operations and would not unduly restrain competition. Nevertheless the Commission expressly conditioned the authority granted "to such further limitations, restrictions, or modifications as we may find it necessary to impose or make in order to insure that service shall be auxiliary or supplementary to train service of the railroad and shall not unduly restrain competition." *Id.*, at 5 M.C.C. 458. The certificate, authorizing operations between Silvis, Illinois, and Omaha, Nebraska, and containing the foregoing reservation, was issued to Motor Transit on December 3, 1941.

The Commission Approved the Purchase of Frederickson for Unrestricted Operations.

Subsequently, on November 28, 1944, in *Rock Island M. Transit Co.—Purchase—Frederickson,* 39 M.C.C. 824, the Commission, Division 4, approved the purchase by Motor Transit of motor-carrier operating rights between Atlantic, Iowa, an intermediate point on the White Lines route, and Omaha, that would permit future truck operations by Motor Transit to follow the line of the railroad much more closely than had the previously-acquired routes. However, the report did not confine Motor Transit to auxiliary and supplemental service. Because of the inconsistency of having truck operations over one route restricted and those over an alternate route unrestricted, the Commission, on February 5, 1945, before the Frederickson certificate was issued, ordered both finance proceedings and the applicable compliance docket reopened for reconsideration.

The Commission Reconsidered Both Cases and Restricted the Combined Operations.

The Commission on reconsideration issued a comprehensive report, *Rock Island M. Transit Co. — Purchase — White Line M. Frt.*, 40 M.C.C. 457, dated March 4, 1946, wherein it found that the White Lines certificate should be amended and the Frederickson certificate restricted so as to require that all future operations conducted thereunder should be subject to five express conditions insuring auxiliary and supplemental service. Following this report Motor Transit petitioned for reconsideration, and on June 9, 1947, the Commission reopened the proceedings for further hearing. The report of the Commission on further hearing, *Rock Island M. Transit Co.—Purchase—White Line M. Frt.*, 55 M.C.C. 567, dated April 11, 1949, affirmed the prior report, including the imposition of the auxiliary and supplemental restrictions.

Thereupon Motor Transit filed a complaint in the U. S. District Court for the Northern District of Illinois, Eastern Division, and in *Rock Island Motor Transit Co.* v. *United States*, 90 F. Supp. 516, decided November 29, 1949, the three-judge court set aside the Commission's report and order.

The Supreme Court Upheld the Restrictions.

On appeal this Court reversed the decision of the District Court and sustained the Commission's imposition of the auxiliary and supplemental restrictions. The Court in its decision of February 26, 1951, in *United States* v. *Rock Island Motor Transit Co.*, 340 U.S. 419, 71 S. Ct. 382, agreed with the Commission that, under the circumstances, it was required to restrict the motor-carrier operating rights acquired pursuant to the provisions of Section 213 to the rendition of service auxiliary to, and supplemental of, the rail service of the railroad. Rehearing was denied by this Court on April 9, 1951. *United States*

v. *Rock Island Motor Transit Co.*, 341 U. S. 906, 71 S. Ct. 609.

The Commission Granted Temporary, then Permanent, Unrestricted Rights.

The certificate with the auxiliary and supplemental restrictions attached was issued to Motor Transit on September 11, 1951.[1] In the meantime, however, Motor Transit had applied for and had been granted temporary authority under Section 210a of the Interstate Commerce Act, 49 U. S. C. §310a, to operate over virtually identical routes to those it had acquired through the White Lines and Frederickson purchases under somewhat less restrictive conditions than those contained in the certificate issued September 11, 1951.[2] On October 26, 1951, Motor Transit filed an application under Section 207, 49 U. S. C.

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[1] The certificate was limited by the following restrictions:

1. The service to be performed by The Rock Island Motor Transit Company shall be limited to service which is auxiliary to, or supplemental of, train service of The Chicago, Rock Island and Pacific Railway Company.

2. The Rock Island Motor Transit Company shall not render any service to, or from; or interchange traffic at any point not a station on the rail line of The Chicago, Rock Island and Pacific Railway Company.

3. No shipments shall be transported by The Rock Island Motor Transit Company between any of the following points, or through, or to, or from, more than one of said points: Omaha, Nebr., Des Moines, Iowa, and collectively Davenport and Bettendorf, Iowa, and Rock Island, Moline, and East Moline, Ill.

4. All contractual arrangements between the Rock Island Motor Transit Company and The Chicago, Rock Island and Pacific Railway Company shall be reported to us and shall be subject to revision, if and as we find it to be necessary in order that such arrangements shall be fair and equitable to the parties.

5. Such further specific conditions as we, in the future, may find it necessary to impose in order to insure that the service shall be auxiliary to, or supplemental of, train service.

[2] The temporary authority was limited to shipments of 2,000 pounds (later increased to 5,000 pounds), and certain key-point restrictions were imposed.

§307, for permanent authority to perform unrestricted motor carrier operations over the pertinent routes. Hearings were held in this proceeding, docketed as No. 29130 (Sub-No. 70), on March 18 through April 21, 1952, and on May 20, 21, and 22, 1952, at Des Moines, Iowa. Almost a year later, on April 21, 1953, the examiner's recommended report and order (R. 1) was served upon the parties. After the filing of exceptions and replies thereto oral argument was had before the Commission on March 8, 1954. By its report and order of November 22, 1954, in *The Rock Island Motor Transit Company Common Carrier Application,* (R. 93) 63 M. C. C. 91, complained of herein, the Commission granted Motor Transit's Section 207 application, finding that the present and future public convenience and necessity required Motor Transit's operations between Silvis and Omaha free of any auxiliary and supplemental restrictions. While Silvis and Omaha are the extremeties of the operations that would be authorized by the report and order herein, it is clear that by "tacking" these rights to rights it has acquired previously Motor Transit would be able to perform all-out trucking in an area ranging from Minneapolis-St. Paul on the north, Kansas City on the south, Chicago on the east and Omaha on the west. The appellants herein, protestants and interveners in the Commission proceeding, on February 16, 1955, petitioned the Commission for reconsideration of its report, and Motor Transit and interveners in its behalf resisted. The petition for reconsideration was denied by order (R. 122, 137) of the Commission dated July 6, 1955, served July 14, 1955, corrected copy served July 27, 1955.

The District Court Upheld the Commission's Grant.

Appellants, plaintiffs below, filed their complaint (R. 85) in the District Court on July 20, 1955. The case was heard by the District Court on December 15, 1955. The opinion (R. 192) was rendered January 11, 1956, and the

judgment (R. 195), January 27, 1956. The notice of appeal (R. 197) was filed March 23, 1956. Probable jurisdiction was noted by this Court on October 8, 1956 (R. 204), 352 U. S. 816, 77 S. Ct. 36.

SUMMARY OF ARGUMENT

The Commission's report and order complained of herein would confer upon Motor Transit a broad grant of authority to conduct motor-carrier operations not auxiliary to or supplemental of the train service of its parent railroad. In the area directly involved comprising a total of approximately 500 miles of routes, serving such important points as Chicago, Des Moines, Cedar Rapids and Omaha, the proposed operations would constitute a complete departure from the type of service contemplated by the statute and heretofore authorized by the Commission.

Further, the record before the Commission makes it clear that the railroad subsidiary, by "tacking" the authority granted by the Commission to authority already held, would be able to perform completely unrestricted motor-carrier service over a much broader area than that directly involved in the proceeding before the Commission, including, for example, service between such important points as Chicago and Kansas City. This without a scintilla of evidence in the record before the Commission of any need for such additional motor-carrier service and in the teeth of the Commission's holding, at an earlier stage of this same proceeding, that a railroad applicant for motor-carrier operating authority "has a special burden, not by reason of any attitude or action on our part, but by reason of the very circumstance that it is a railroad."[3]

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[3] *Rock Island Mtr. Transit Co.—Purchase—White Line M. Frt., supra*, at 40 M. C. C. 474. Report of the entire Commission on reconsideration.

Whether it be viewed as the lifting of auxiliary and supplemental restrictions imposed on motor carrier operating authority previously acquired by purchase or as a grant of new authority not subject to auxiliary and supplemental restrictions, the Commission's report and order complained of herein violates the letter and the spirit of the law, to wit, the National Transportation Policy and Sections 5(2)(b) and 207 of the Interstate Commerce Act, and is contrary to the decisions of the Commission and this Court. The report and order ignores completely the first prerequisite to Commission approval that the service by motor vehicle be for use by the parent railroad *in its operations*. It pays lip service only to the further prerequisite, which it could not validly reach, that the proposed operation is in furtherance of the public interest and will not unduly restrain competition. However, even assuming the Commission had been able to make the necessary findings, the only operations that could be approved nevertheless would be auxiliary and supplemental operations, and the Commission would be required, as it is in the case of every grant to a railroad or to a railroad affiliate of authority to operate as a common carrier by motor vehicle or to acquire such authority by purchase or otherwise, to condition the authority so as definitely to limit future service by motor vehicle to that which is auxiliary to, or supplemental of, train service.

The import of the Commission's grant of unrestricted motor-carrier authority to Motor Transit far transcends consideration of the immediate needs of the shippers and receivers of freight in the affected area, the willingness and ability of the existing motor carriers to satisfy that need, or the impact of the added competition of a railroad-sustained, State-protected subsidiary motor car-

rier.[4] Being the first case involving an attempt to award unrestricted motor rights of such magnitude to a railroad or its subsidiary, this proceeding presents the basic question of the proper relationship between the railroads and the motor carriers. Is the latter mode of transportation to continue the measure of independence of the control of the former that has existed in the past? Is an independent motor carrier industry, contemplated by the National Transportation Policy and the Interstate Commerce Act to be supplanted, through Commission fiat, by fully integrated transportation rendered by the railroads and their wholly-owned subsidiaries?

The Interstate Commerce Commission from the time of the *Barker* decision, *infra*, until its report and order complained of herein has recognized its duty of confining motor-carrier operations of railroads or their subsidiaries to service auxiliary to, and supplemental of, their rail service. In accordance with the Congressional mandate it has sought to maintain the integrity of the independent

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[4] Motor Transit is the only motor carrier with intrastate authority to operate over U. S. Highway 6 between the Iowa points involved herein. This intrastate monopoly (R. 98), conferred by the Iowa State Commerce Commission, enables Motor Transit to transport in the same vehicle combined loads of interstate and intrastate traffic to and from the small Iowa points, much more economically than can the independent motor carriers which are denied the right to transport intrastate freight. The Commission, clearly aware of this, nevertheless subordinated its duty, set forth in the *Parker* case, *infra*, to guard against a transportation monopoly, in favor of Iowa's policy directly to the contrary, by authorizing Motor Transit to handle interstate traffic to and from the same small Iowa points with no restrictions imposed. If the Commission's decision is allowed to stand, the Iowa intrastate monopoly granted Motor Transit will inevitably ripen into a complete monopoly, both of inter- and intrastate freight. This is bad enough in itself, but the Commission grossly compounds its error by allowing Motor Transit to conduct unrestricted operations between major cities throughout the parent railroad's system, in Iowa and elsewhere, despite the absence of a shred of record evidence to support a need for such service.

motor-carrier industry. To be sure, appellants believe the Commission has been altogether too generous in authorizing the railroads to engage in over-the-road trucking operations in the performance of so-called auxiliary and supplemental service. It has glossed over the statutory requirements that the railroads establish that their acquisition of existing motor-carrier operating authority is in the public interest (Section 5(2)(b)) or that their inauguration of a new motor-vehicular operation is required by the public convenience and necessity (Section 207). It has permitted railroads to operate inter-city trucks in feeder service and service in substitution for way freight trains upon a mere showing that the railroads thereby could achieve certain economies; the Commission's decisions "construe the statute as if 'railroad convenience and necessity' rather than 'public convenience and necessity' were the standard." Mr. Justice Douglas, dissenting in the *Parker* case, *infra*, at 326 U.S. 74, 65 S. Ct. 1497. But even though its standard of public need in the case of rail applications to perform truck service has been different (and much easier to satisfy) than has been the case in connection with applications by independent motor carriers, nevertheless the Commission has never heretofore authorized a railroad to conduct unrestricted trucking operations of the magnitude of those involved herein.

By the departure from its policy that the decision herein represents the Interstate Commerce Commission would permit the complete integration of truck and rail transportation. Not confined to operations auxiliary to, and supplemental of, the train service of the parent railroad company, the grant of unrestricted motor-carrier operating authority would enable the railroad subsidiary to compete all-out with independent motor carriers and indeed with the railroad itself. The subsidiary, relying on the financial and soliciting resources of the parent

railroad, would be such a potent competitor that it soon would be able to dominate the field and eventually drive the independent motor carriers from the roads. A motor industry owned or controlled by the railroads certainly was not what Congress had in mind. The appellants here are not objecting to the use of trucks by the railroads in pick-up and delivery services, feeder service or service in substitution for way freight trains. Stated differently, they are not objecting to a railroad's use of trucks in service auxiliary to, or supplemental of, the railroad's train service. They are, however, objecting to the entry of the railroads into the trucking business through subsidized motor affiliates rendering an unrestricted trucking operation such as would otherwise be rendered by the independent motor carriers. In short, our objection goes to the fundamental departure from policy which is inherent in the Commission's decision—the complete abandonment of the rule, consistently applied since motor carriers came under federal regulation, that railroad use of motor vehicles must be so tied in with their train operations as to enable the Commission to hold that the motor service authorized is for the purpose of improving the railroad's train service, as distinguished from the performance of a completely independent motor service. Appellants believe that Congress by the enactment of the National Transportation Policy and the provisions of Sections 5(2)(b) and 207 of the Interstate Commerce Act made it abundantly clear that the Commission was not empowered to authorize railroads to perform motor-carrier service completely divorced from their train operations. Indeed, both the Commission and the Government, in their joint brief filed in this Court in 1951 in the *Texas and Pacific* case, subscribed to this view. See discussion, *infra*, pp. 25 and 26.

The Interstate Commerce Commission by promulgating the order complained of went counter to the Congressional direction and exceeded its lawful authority.

ARGUMENT

The Proviso of Section 5(2)(b)—Formerly Section 213

Congressional Policy Against Integration of Competing Modes of Carriage Long Antedated the Motor Carrier Act.

The principle that competing media of transportation should not be commonly owned or controlled was well established by the time interstate motor carriers came under federal regulation. The Panama Canal Act of 1912, 37 Stat. 566, 49 U.S.C. §5 (14), (15) and (16), and the legislative debates thereon announced in unequivocal terms the desire of Congress to keep each form of transportation independent of ownership or control by carriers with which it was in actual or potential competition. "The proper function of a railroad corporation is to operate trains on its tracks, not to occupy the waters with ships in mock competition with itself, which in reality operate to the extinction of all genuine competition." H. R. Rep. No. 423, 62nd Cong., 2nd Sess. (1912), p. 12.

Two years after the passage of the Panama Canal Act Congress enacted the Clayton Act, 38 Stat. 731, 15 U.S.C. §18, applicable to railroads as well as other corporate enterprises, which prohibited the acquisition by one corporation engaged in interstate commerce of stock in another such corporation if "the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly." Later Section 500 of the Transportation Act of 1920, 44 Stat. 499, 49 U.S.C. §142, declared it "to be the policy of Congress to promote, encourage, and develop water transportation, service, and facilities in connection with the commerce of the United States, and to foster and preserve in full vigor both rail and water transportation". In the same vein Congress, in establishing the Inland Waterways Corporation, speci-

fied that "no member of the board shall be an officer, director, or employee of or substantially interested in, any railroad corporation." 43 Stat. 361, 49 U.S.C. §154. Congress further directed "that the facilities of the corporation shall not be sold or leased (1) to any carrier by rail or to any person or company directly or indirectly connected with any carrier by rail." 45 Stat. 978, 49 U.S.C. §153.

It was to be expected, therefore, that, when the motor carrier industry had grown to such importance that it become desirable to bring it under Federal regulation, the Congress, notwithstanding the recommendation of the Interstate Commerce Commission that the railroads should be permitted to engage in the transportation of freight by motor truck on an equal basis with independent operators, *Coordination of Motor Transportation*, 182 I.C.C. 263, 377, would safeguard the motor carrier industry, as it had the water carrier industry, from domination and control by the railroads or other competitive transportation media.[5] Indeed, **"there was strong opposition to permitting the railroads to acquire motor carriers at all. . . . the proviso [of Section 213] was intended to do no more than to authorize that the railroads be permitted to acquire motor carriers for use of the motor service in their own operations, principally way-train and terminal operations. Indeed, all the legislative history, including the historical background thereto, confirms this view, as do the early Commission motor carrier reports, since consistently followed."** Brief for U.S. and I.C.C. before Supreme Court in *U. S. v. T. & P. Motor Transp. Co.*, p. 35.

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[5] Comparable limitations upon ownership or control by competing transportation agencies subsequently were included in the legislation bringing air carriers under Federal regulation. Section 408 of the Civil Aeronautics Act of 1938, 49 U.S.C. §488.

Congress Forbade Railroad Control of the Motor Carrier Industry.

By Section 213 of the Motor Carrier Act of 1935 (now included in Section 5 of the Interstate Commerce Act) the Interstate Commerce Commission, which had been charged with the Act's enforcement, was authorized to approve the acquisition of control of a motor carrier by another such carrier upon a finding, after hearing, that "the transaction proposed will be consistent with the public interest". However, should the applicant for Commission approval be "a carrier other than a motor carrier"—that is, a carrier by railroad, express or water—the Commission was precluded from acting favorably thereon unless the proposed transaction met the following three requirements:

1) It would "promote the public interest":

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[6] Whenever a consolidation, merger, purchase, lease, operating contract, or acquisition of control is proposed under this section, the carrier or carriers or the person seeking authority therefor shall present an application to the Commission, and thereupon the Commission shall notify the Governor of each State in which any part of the properties or operations of the carriers involved in the proposed transaction is situated, and also such carriers and the applicant or applicants, and other parties known to have a substantial interest in the proceeding of the time and place for a public hearing. If after such hearing the Commission finds that the transaction proposed will be consistent with the public interest and that the conditions of this section have been or will be fulfilled, it may enter an order approving and authorizing such consolidation, merger, purchase, lease, operating contract, or acquisition of control, upon such terms and conditions as it shall find to be just and reasonable and with such modifications as it may prescribe: *Provided, however,* That if a carrier other than a motor carrier is an applicant, or any person which is controlled by such a carrier other than a motor carrier or affiliated therewith within the meaning of section 5 (8) of part I, the Commission shall not enter such an order unless it finds that the transaction proposed will promote the public interest by enabling such carrier other than a motor carrier to use service by motor vehicle to public advantage in its operations and will not unduly restrain competition.

2) It would enable the acquiring carrier "to use service by motor vehicle to public advantage in its operations"; and
3) It would "not unduly restrain competition."

In speaking of this limitation on the right of the railroads to acquire motor carriers Chairman Sadowski of the Subcommittee of the House Committee on Interstate and Foreign Commerce said:

> Section 213 provides that the Commission shall control the consolidation, merger, and acquisition of control of motor carriers. I will say in this respect that it is the intent, and it is important to the welfare and progress of the motor-carrier industry, that the acquisition of control of the carriers be regulated by the Commission so that the control does not get into the hands of other competing forms of transportation, who might use the control as a means to strangle, curtail, or hinder progress in highway transportation for the benefit of the other competing transportation. 79 Cong. Rec. 12206, July 31, 1935.[7]

To the same effect, Senator Burton K. Wheeler, then Chairman of the Senate Committee on Interstate Commerce, said of the proviso in Section 213 of the Bill:

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[7] Commissioner Joseph B. Eastman of the Interstate Commerce Commission, the most distinguished transportation authority of his time, testifying in 1938 before a subcommittee of the Senate Committee on Interstate Commerce, said of the proviso:

> The reason for that proviso was that at the time when this act was under consideration by your committee, there was a feeling on the part of many that railroads, for example, ought not be permitted to acquire motor carriers at all. It was pointed out, in opposition to that view, that there were many cases where railroads could use motor vehicles to great advantage in their operations, in substitution for rail service, as many of them are now doing. Many railroad men, for example, feel that the operation of way trains has become obsolete; that the motor vehicle can handle such traffic between small stations much more economically and conveniently than can be done by a way train; and the motor vehicles are being used in that way by many railroads. The same is true of many terminal operations. The motor vehicle is a much more

With this limitation, it will be possible for the Commission to allow acquisitions which will make for coordinated or more economical service and at the same time to protect the public against the monopolization of highway carriage by rail, express, or other interests. 79 Cong. Rec. 5655, April 15, 1935.

In the* Barker *Case the Commission Properly Viewed its Duties Pursuant to the Proviso.

The leading early Commission motor carrier report dealing with the problem of rail utilization of trucking facilities was *Pennsylvania Truck Lines, Inc.—Control—Barker*, 1 M.C.C. 101, decided October 8, 1936. Therein a motor-carrier subsidiary of the Pennsylvania Railroad Company applied for Commission aproval for the purchase of the operating rights of an independent motor carrier for the purpose of offering motor-vehicle service, on the one hand fully coordinated with, and on the other hand completely disassociated from, the rail operations of the railroad. The Commission, Division 5, after re-

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flexible unit than a locomotive switching cars, and it can be used to great advantage and with great economy in many railroad operations.

For that reason, something of a compromise was reached between those two opposing views, and it was provided that a railroad could acquire a motor carrier if it could make special proof that the transaction was not only consistent with the public interest but would promote the public interest in a special way, namely by enabling such carrier other than a motor carrier to use service by motor vehicle to public advantage in its operations. And a further finding was required, that the acquisition will not unduly restrain competition.

Now, in drafting that, while it was aimed particularly at railroad acquisitions, the general expression "carrier other than a motor carrier" was used, it being felt that the same thing might apply to water carriers possibly or possibly to express companies or possibly to electric railways in certain situations. Hearings before a Subcommittee of the Senate Committee on Interstate Commerce on S. 3606, 75th Cong., 3rd Sess., p. 23.

viewing the provisions of Section 213, observed, "It is the obvious intent of the act that special safeguards shall surround acquisitions of motor carriers by carriers engaged in other forms of transportation, and no doubt railroads were particularly in mind." 1 M.C.C. 109. The Commission, at 1 M.C.C. 111, declined to give its approval to the purchase, setting forth its reasons in what since has become the classic statement of the rationale underlying the separation of rail and truck ownership or control:

> While we have no doubt that the railroad could, with the resources at its command, expand and improve the partnership service and that, so far as numbers are concerned, there is now an ample supply of independent operators in the territory for the furnishing of competitive service, we are not convinced that the way to maintain for the future healthful competition between rail and truck service is to give the railroads free opportunity to go into the kind of truck service which is strictly competitive with, rather than auxiliary to, their rail operations. The language of section 213, above quoted, is evidence that Congress was not convinced that this should be done. Truck service would not, in our judgment, have developed to the extraordinary extent to which it has developed if it had been under railroad control. Improvement in the particular service now furnished by the partnership might flow from control by the railroad, but the question involved is broader than that and concerns the future of truck service generally. The financial and soliciting resources of the railroads could easily be so used in this field that the development of independent service would be greatly hampered and restricted, and with ultimate disadvantage to the public.

Thus, at the very inception of its regulation of the motor-carrier industry, the Commission construed the governing statute as requiring it to restrict rail use of motor vehicles in such a manner as to insure against rail control and consequent retardation of the future

development of independent truck service. Until this proceeding it has insisted that the motor-carrier service furnished by a railroad or an affiliated company "be confined to service auxiliary and supplementary to that performed by the . . . [railroad] in its rail operations. . . ." 1 M.C.C. 113. Spelling out exactly what it meant by such limitation the Commission, Division 5, said in a supplemental report in the *Barker* case, at 5 M.C.C. 9, 11:

> Approved operations are those which are auxiliary or supplementary to train service. Except as hereinafter indicated, nonapproved operations are those which otherwise compete with the railroad itself; those which compete with an established motor carrier, or which invade to a substantial degree a territory already adequately served by another rail carrier.

The principle of the *Barker* case, that a railroad should be authorized to engage in motor-carrier operations only to the extent that it employs such service in operations auxiliary and supplementary to its train service, was approved by the full Commission in *Northland—Greyhound Lines, Inc.—Purchase—Liederbach*, 5 M.C.C. 215, and was followed by Division 5 in at least ten other acquisition proceedings under Section 213 of the Act during the following two years.[8]

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[8] *Norfolk S. Bus Corp.—Purchase—Etheridge and Lennon*, 5 M.C.C. 707; *Texas & P. Motor Transport Co.—Purcha[illegible]—Southern Transp.*, 5 M.C.C. 653; *Motor Transport Co.—Purchase—Jansen*, 5 M.C.C. 570; *Rock Island M. Transit Co.—Purchase—White Line M. Frt., supra; Burlington Transp. Co.—Purchase—Bell Transfer, Inc.*, 5 M.C.C. 291; *Santa Fe Trail Transp. Co.—Purchase—Schaeffer*, 5 M.C.C. 115; *Texas & P. Motor Transport Co.—Purchase—Johnson*, 5 M.C.C. 89; *Santa Fe Trail Transp. Co.—Control—Western Transit Co.*, 5 M.C.C. 81; *Pennsylvania Truck Lines, Inc.—Control—Alko Exp. Lines*, 5 M.C.C. 77; and *Pennsylvania Truck Lines, Inc.—Purchase—Cain*, 5 M.C.C. 73.

The Proviso Applied to Section 207

The Declaration of Policy Called for the Preservation of the Inherent Advantages of Truck Transportation.

While the express limitations upon railroad participation in truck transportation, contained in Section 213, were not repeated in Section 207 of the Act, 49 U.S.C. §307, governing the issuance of motor-carrier certificates of public convenience and necessity, that section, as any other, was required to be read in connection with the rest of the Act and interpreted with due regard to its manifest purpose. This Court has applied this principle to the Interstate Commerce Act. *Nashville, C. & L. Ry. v. State of Tennessee*, 262 U.S. 318, 43 S.Ct. 583.

Section 202 of the Motor Carrier Act, now expanded into the National Transportation Policy, 49 U.S.C. preceding §1, required the Commission "to regulate transportation by motor carriers in such manner as to recognize and preserve the inherent advantages of, and foster sound economic conditions in, such transportation and among such carriers." It declared further that motor carrier service should be rendered without "unfair or destructive competitive practices" and that the Commission should "improve the relations between and coordinate transportation by and regulation of, motor carriers and other carriers."

In speaking of this provision in the debate preceding enactment of the bill that became the Motor Carrier Act, Senator Wheeler said:

> Subsection (a) [of Section 202] contains a comprehensive declaration of policy. As amended, it makes clear that the policy of Congress is to deal fairly and impartially with transportation by motor carriers and to preserve the natural advantages of such transportation.
>
> . . . we specifically wrote into the bill, in the declaration of policy provision, and at other places throughout the bill, that the peculiar features of

transportation by truck and by bus should be taken into consideration at all times by the Interstate Commerce Commission, and we put such a provision in the declaration of policy. 79 Cong. Rec. 5650, April 15, 1935.

We tried to modify it [the bill] as much as possible to take away any fear that might exist in the minds of some that the motor buses and trucks were going to be regulated in the interest of the railroads. 79 Cong. Rec. 5657, April 15, 1935.

The Statement of Commissioner Eastman Revealed the Commission Would Give Effect to the Proviso in Reading the Act as a Whole.

As early as 1938 it was firmly settled that the Commission was bound as strongly under Section 207 as under Section 213 to limit a railroad's motor-carrier operations to those which are auxiliary to, and supplemental of, its rail service. It was in March of that year that Commissioner Eastman, speaking for the Commission, testified on S. 3606, a bill to amend certain sections of the Motor Carrier Act, before a subcommittee of the Senate Committee on Interstate Commerce, 75th Congress, 3rd Session. Senator Shipstead, a member of the Committee, had offered an amendment to the bill which would have added an express proviso to Section 207, as was contained in Section 213, requiring the Commission to deny the application filed by a carrier other than a motor carrier unless it found "that the transaction proposed will promote the public interest by enabling such carrier other than a motor carrier to use service by motor vehicle to public advantage in its operations and will not unduly restrain competition." Hearings on S. 3606, Senate Committee on Interstate Commerce, 75th Cong., 3rd Sess., p. 23.

The purpose of the amendment was explained in an exchange between Senator Shipstead and Commissioner Eastman, as follows:

Senator Shipstead. Well, there has been an apprehension that the things prohibited in the Act, so far as purchasing and acquiring are concerned, and the denial to purchase and acquire, can be secured in this way: That they can acquire indirectly, by a certificate, what they cannot otherwise acquire.

Commissioner Eastman. I think you mean that they could acquire a motor carrier and make the requisite proof under Section 213, and then could extend the operations of that motor carrier without making any such proof. And your proposed amendment, here, is intended to correct that situation.

Senator Shipstead. Yes; it is intended to clarify what seems to be a misunderstanding as to the act. I think the intention of Congress was perfectly plain. But the question has arisen, and in order to avoid any further controversy, this amendment is introduced. It would change the whole policy of the act, if they could proceed to acquire by certificate what they are not directly permitted to do. The question is whether that should be allowed to continue. (Hearings, pp. 28 and 29)

Commissioner Eastman stated that the Commission did not oppose the amendment, but he expressed some doubt that it actually was necessary in view of the Commission's probable construction of the pertinent provisions of the Act.

Commissioner Eastman . . . We have indicated that it seems to us consistent with the policy now reflected in section 213(a), paragraph 1; that his amendment should be added to section 207(a).

In other words, if a railroad must submit special proof that the public interest will be promoted in certain respects, before it can acquire a motor carrier, it seems entirely consistent that it shall make such special proof when it seeks to extend the operations of a motor carrier which is already under its control. So we have no objection to offer to the amendment.

As a matter of fact, I think it could be argued with a great deal of force that in interpreting and

applying the provisions of section 207(a) as it now stands, the Commission should read the act as a whole and take cognizance of this policy which is now reflected in section 213(a)(1).

* * * *

. . . If I had to pass on the issue now, I should say that in administering the provisions of section 207, it would be the duty of the Commission to read the act as a whole and to apply the same policy with respect to the extension of operations of a railroad-controlled motor carrier as is provided by the proviso of section 213.

Senator Johnson of Colorado: Under the present law?

Commissioner Eastman: Under the present law. (Hearings, pp. 27-30)

The following day, relying on Commissioner Eastman's representation that his amendment was unnecessary, Senator Shipstead withdrew the amendment.

Senator Shipstead: . . . In view of the statement made by Commissioner Eastman for the Commission as to their view of this matter, and also his personal view, that he thinks the provision of this amendment is already in the law, and that . . .

Senator Johnson of Colorado (interposing) . . . that is, you mean the Shipstead amendment?

Senator Shipstead: Yes; that it is already in the law, and evidently he considers it unnecessary at the present time. So, in order to save the time of the subcommittee, and in order to facilitate advancing the Commission's recommendations for amendments to the Motor Carrier Act, I withdraw, for the present at least, the amendment I offered. I think we will stand on the Commission's point of view, and the personal view of Commissioner Eastman. (Hearings p. 141.)

Commissioner Eastman's testimony clearly indictated that a proper interpretation of the statute required the

Commission to read the proviso of Section 213 into Section 207 whenever a railroad or rail-controlled motor carrier sought to extend its operations under the latter section. The legislative history of the 1938 amendments to the Motor Carrier Act, demonstrates that Congress was satisfied that the Interstate Commerce Commission would apply the restrictive proviso of Section 213 to proceedings under Section 207 as well.

The testimony of Commissioner Eastman was quoted in part and with approval by the Commission and the Government at pages 31 and 32 of their joint brief in the *Texas and Pacific* case, and later in the brief, at pages 53-55, they said:

> **To be sure, section 207 does not contain a provision like that in section 213 (now sec. 5), imposing restrictions and requiring special findings in instances where the applicants are railroad subsidiaries. But that section does preclude the Commission from granting a certificate of operating authority unless it is able to find that the proposed operations are required by public convenience and necessity; and, in instances of applications by railroad subsidiaries, the Commission, in the practical administration of section 207, is confronted with substantially identical obstacles and problems as in cases of applications by railroad subsidiaries under section 213. Like section 1 (18), which forbids the railroads from extending their lines unless authorized by the Commission based on findings that the extension is required by public convenience and necessity, section 207 was enacted by Congress to enable the Commission to control and prevent wasteful competition and destructive competitive practices. Although section 213 (now sec. 5) deals with the acquisition of existing motor carrier operations, which, as acquired by railroad subsidiaries, would presumably be taken out of the field of independent existing competition, nevertheless, the purposes of Congress' transportation policy, declared when enacting the Motor Carrier Act, refute any inference that Congress, while closing the door to railroad suppression of motor carrier com-**

> **petition by means of acquiring through a subsidiary existing motor carrier operations, at the same time left open the unfettered opportunity to do the same thing by means of obtaining through a subsidiary authority to institute new motor carrier operations. So far as opportunity for suppression of competition is concerned, there is little difference, particularly in the motor carrier field, between the opportunity afforded through the control by a railroad of an already existing motor carrier and that afforded by control of one newly created. . .**

Reversing completely its 1951 argument, the Commission now lays great stress upon the absence from Section 207 of the specific language of the proviso of Section 5(2)(b). The failure to include such language in the section of the statute dealing with extension applications such as that involved here, says the Commission, allows it to ignore the Congressional mandate whenever it decides that restricting railroad operation of motor vehicles "is clearly not in the public interest." (R. 115), 63 M.C.C. 107-108. This effort of the Commission to arrogate to itself the prerogative which Congress has already exercised evokes the recent pronouncement of this Court in *N.L.R.B* v. *Lion Oil Co.*, 352 U.S. 282, 288, 77 S. Ct. 330, 334:

> In Mastro Plastics Corp. v. National Labor Relations Board, supra, we had before us another provision of §8(d). What we said there in ruling out a narrowly literal construction of the words of the statute is equally apropos here. "If the above words are read in complete isolation from their context in the Act, such an interpretation is possible. However, 'In expounding a statute, we must not be guided by a single sentence or member of a sentence, but look to the provisions of the whole law, and to its object and policy.' United States v. Boisdoré's Heirs, 8 How. 113, 122, 12 L.Ed. 1009." 350 U.S. at page 285, 76 S. Ct. at page 359. Moreover, in Mastro Plastics we cautioned against accepting a construction that "would produce incongruous results." Id., 350 U.S. at page 286, 76 S. Ct. at page 360.

In the Kansas City Southern *Case the Commission Properly Applied the Terms of the Proviso in a Section 207 Proceeding.*

Later in the year 1938 in the leading case of *Kansas City S. Transport Co., Inc., Com. Car. Application,* 10 M.C.C. 221, the Commission, Division 5, found that the principles and criteria laid down in the *Barker* case, *supra,* as applicable to acquisition proceedings under Section 213 were equally applicable to proceedings under Section 207. One observer, analyzing the developments, noted that it seemed unlikely that Congress intended, after creating a narrow doorway through which railroads must squeeze into the trucking field with difficulty, in the next breath to create a larger doorway through which the railroads could walk with more ease. J.E.E., "Interstate Commerce Act—Certificates of Public Convenience and Necessity—Railroad Application for Truck Lines to Haul Less-than-Carload Freight Between Railroad Way-Stations," Geo. Wash. L. Rev., 14: 838, Feb. '46.

In the *Kansas City Southern* case the railroad affiliate sought, under Section 207, motor common carrier rights to operate partly in auxiliary and supplemental service and partly in independent service. The Commission, Division 5, denied the application for independent service and granted, in part, that for auxiliary and supplemental service. After discussing the *Barker* decision, it made the limited grant, subject, however, to five conditions intended to insure that service would remain auxiliary and supplemental to the train service of the railroad.[9] The

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[9] 1. The service to be performed by applicant shall be limited to service which is auxiliary to, or supplemental of, rail service of the Kansas City Southern Railway Company or the Arkansas Western Railway, hereinafter called the railways.

2. Applicant shall not serve, or interchange traffic at, any point not a station on a rail line of the railways.

3. Shipments transported by applicant shall be limited to those which it receives from or delivers to either one of the railways under a through bill of lading covering, in addition to movement

decision in the *Kansas City Southern* case thereafter was followed consistently, and by 1940 substantially identical restrictions had been imposed in disposing of numerous railroad applications for motor carrier operating authorities.[10]

The consistent imposition of restrictions intended to limit railroad motor-carrier operations to service auxiliary and supplemental of the train service of the railroad—in application proceedings under Section 207 as well as acquisition proceedings under Section 213—left no doubt as to how the Commission construed the requirements of the law. Section 213, prescribing that the motor service

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by applicant, a prior or subsequent movement by rail.

4. All contractual arrangements between applicant and the railways shall be reported to us and shall be subject to revision, if and as we find it to be necessary in order that such arrangements shall be fair and equitable to the parties.

5. Such further specific conditions as we, in the future, may find it necessary to impose in order to restrict applicant's operation to service which is auxiliary to, or supplemental of, rail service. [10 M.C.C. 240.]

[10] *Pennsylvania Truck Lines, Inc., Com. Car. Application*, 24 M.C.C. 261; *Missouri Pac. R. Co. Com. Car. Application*, 22 M.C.C. 321; *Louisiana, A. & T. Ry. Co. Common Carrier Application*, 22 M.C.C. 213; *Barcus Extension of Operations—Household Goods*, 22 M.C.C. 147; *Seaboard Air Line Ry. Co. Extension—Tampa, Fla.*, 21 M.C.C. 773; *Pacific Motor Trucking Co. Common Carrier Application*, 21 M.C.C. 761; *Rock Island Motor Transit Co. Com. Car. Application*, 21 M.C.C. 513; *Texas & P. Motor Transport Co. Ext.—Marshall, Tex.*, 20 M.C.C. 593; *Missouri Pac. R. Co. Extension—Arkansas—Louisiana*, 20 M.C.C. 563; *Great Northern Ry. Co. Extension—Hobson—Lewistown*, 19 M.C.C. 745; *Chicago R.I. & P. Ry. Co. Ext.—Iowa, Mo., Kans., and Nebr.*, 19 M.C.C. 702; *Missouri Pac. R. Co. Extensions of Operations—Illinois*, 19 M.C.C. 605; *Gulf, M. & N.R. Co. Common Carrier Application*, 18 M.C.C. 721; *Seaboard A.L. Ry. Co. M. Operation—Gaston-Garnett, S.C.*, 17 M.C.C. 413; *Texas & P. Motor Transport Co. Ext.—Big Spring—Pecos, Tex.*, 14 M.C.C. 649; *Texas & P. Motor Transport Co. Ext.—Wills Point, Tex.*, 14 M.C.C. 645; *Illinois Central R. Co. Common Carrier Application*, 12 M.C.C. 485; *Santa Fe Trail Transp. Co.—Ext. Moline—Chautauqua*, 11 M.C.C. 613; *Texas & P. Motor Transport Co. Com. Car. Applic.—Louisiana*, 10 M.C.C. 525.

be of public benefit in its, the railroad's operations, and Section 202, directing that the inherent advantages of motor carriers be preserved, imposed a duty upon the Commission to allow railroads to engage in motor-carrier operations only as such operations were coordinated with their rail operations.

Congress Approved the Commission's Application of the Proviso to Section 207 Proceedings.

Such was the construction of the Commission at the time that the Congress considered the legislation that became the Transportation Act of 1940, 54 Stat. 899 *et seq.* A number of cases which reflected the practice of the Commission of restricting railroad-affiliated motor carriers to the rendition of auxiliary and supplemental service had been specifically called to Congress' attention prior to the enactment of the 1940 Act. *United States v. Rock Island Motor Transit Co., supra*, at 340 U.S. 432. For example, the decision in the *Kansas City Southern* case was discussed at page 107 of the 53rd Annual Report of the Interstate Commerce Commission to Congress, and that in *Pennsylvania Truck Lines, Inc. Control—Barker, supra*, was discussed at pages 68 and 69 of the 51st Annual Report.

By the Transportation Act of 1940 the provisions of former Section 202 were broadened to embrace the other forms of transportation and became the National Transportation Policy. The provisions with respect to consolidations and mergers formerly in Section 213 were moved forward and incorporated into Section 5(2)(b) of the Act. While the phraseology was changed somewhat, the Congressional conferees made it plain "that it is not their intention, by changing the language of section 213 . . . to change the legislative intent of the Congress one iota with respect to the acquisition of a carrier by motor vehicle by a carrier by railroad, and that it is the intention of the conferees that section 5(2)(b), as

amended by section 7 of the conference report, shall have the same practical application and legal effect as section 213(a)(1) as it is now shown in Part II of the Interstate Commerce Act". 86 Cong. Rec. 10188, August 12, 1940. It is well established that such Congressional reenactment serves as an implied legislative approval of prior construction. *Johnson* v. *Manhattan Ry. Co.*, 289 U.S. 499, 500, 53 S.Ct. 721, 729; *Old Colony R. Co.* v. *Commissioner of Internal Revenue*, 284 U.S. 552, 557, 52 S. Ct. 211, 212; *Brewster* v. *Gage*, 280 U.S. 327, 337, 50 S. Ct. 115, 117. As this Court said in *N. Y., N. H. & H. R. Co.* v. *I.C.C.*, 200 U.S. 361, 26 S.Ct. 272, 281:

> . . ..a construction made by the body charged with the enforcement of a statute, which construction has long obtained in practical execution, and has been impliedly sanctioned by the reenactment of the statute without alteration in the particulars construed, when not plainly erroneous, must be treated as read into the statute.

Accordingly, if there had been any doubt that former Section 202 of the Motor Carrier Act required the Commission to read the provisions of Section 213, pertaining to purchase applications, into Section 207, dealing with extension applications, such doubt was removed finally by the enactment of the National Transportation Policy. The Commission and this Court in the *Rock Island* and *Texas & Pacific* cases, *infra*, in fact have recognized that this policy requires such construction.

Auxiliary and supplemental restrictions consistently applied to effectuate proviso

The Commission Consistently Restricted Grants of Motor Carrier Authority to Railroads to The Rendition of Auxiliary and Supplemental Service.

Since the original decision in the *Barker* case, the Commission has steadfastly held that railroads should

not be permitted to invade the field of motor service except for the purpose of conducting such motor carrier services as are auxiliary to and supplemental of rail service. Interstate Commerce Commission, Bureau of Transport Economics and Statistics, *Historical Development of Transport Coordination & Integration in the United States*, 1950, p. 108.

Where rail carriers have been granted motor-carrier operating authority, appropriate conditions similar to those set out in the *Kansas City Southern* case have been imposed. The imposition of these restrictions, as modified, was approved by the entire Commission in the *Kansas City Southern* case at 28 M.C.C. 5 and in *Chicago, M., St. P. & P.R. Co. Extension—Milwaukee Division*, 53 M.C.C. 341; *Kansas City S. Ry. Co. Extension of Operations*, 42 M.C.C. 74; *Rock Island M. Transit Co. Extension—Chicago—Joliet, Ill.*, 33 M.C.C. 459; and *Chicago, R. I. & P. Ry. Co. Ext.—Iowa, Mo., Kans., and Nebr.*, 30 M.C.C. 621. In these Section 207 application cases, in addition to the general requirement that the service be limited to that auxiliary to, or supplemental of, rail service, including particular restrictions against service at points not stations on the rail lines and so-called key-point restrictions, the Commission has reserved the right to impose in the future such further restrictions as may be found necessary to keep authorized services auxiliary to and supplemental of rail service.[11]

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[11] *Frisco Transp. Co. Extension—Joplin—Miami*, 53 M.C.C. 415; *George Ernst, Jr., Inc. Extension—Nyack, N. Y.*, 52 M.C.C. 157; *Southern Pac. Transport Co. Common Carrier Application*, 51 M.C.C. 695; *Texas & Pacific Motor Transport Co. Com. Car. Application*, 47 M.C.C. 753; *Seaboard Air Line R. Co. Extension—Gaston—Garnett, S. C.*, 47 M.C.C. 433; *Columbia Motor Transport Co. Com. Car. Application*, 46 M.C.C. 69; *Willet Co., Extension—Gary, Ind.—Chicago, Ill.*, 46 M.C.C. 35; *Rock Island Motor Transit Co. Ext.—Omaha and Belleville*, 44 M.C.C. 430; *Green Bay & W.R. Co. Common Carrier Application*, 44 M.C.C. 401; *Illinois Central R. Co. Extension—Iowa, Minn., and S. Dak.*, 43 M.C.C. 767; *Burlington Transp. Co. Ext.—Illinois, Iowa and Missouri*,

The Commission's imposition of auxiliary and supplemental restrictions upon a grant of motor-carrier author-

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43 M.C.C. 729; *Rock Island Motor Transit Co., Extension—Trenton, Mo.*, 43 M.C.C. 470; *Pennsylvania Truck Lines, Inc., Ext.—Ind., Ohio and Pa.*, 42 M.C.C. 759; *Pennsylvania Truck Lines, Inc., Ext.—Pennsylvania Points*, 42 M.C.C. 733; *Willet Co. of Ind., Inc., Ext.—Fort Wayne—Mackinaw City*, 42 M.C.C. 721; *Frisco Transp. Co. Extension—Missouri—Arkansas*, 42 M.C.C. 219; *Santa Fe Trail Transp. Co. Ext.—Joplin*, 41 M.C.C. 713; *Pennsylvania Truck Lines, Inc. Com. Car. Application*, 41 M.C.C. 607; *Pacific Motor Trucking Co. Extension—Reedsport, Oreg.*, 41 M.C.C. 469; *Seaboard Air Line Ry. Co. Extension—Hamlet—Monroe, N.C.*, 34 M.C.C. 511; *Seaboard Air Line Ry. Co. Extension—Waldo—Morriston, Fla.*, 34 M.C.C. 725; *Chicago, M., St. P. & P. R. Co. Ext.—Wisconsin and Michigan*, 34 M.C.C. 475; *Rock Island Motor Transit Co. Extension—Trenton, Mo.*, 33 M.C.C. 506; *Rock Island Motor Transit Co. Extension—Eldon, Iowa*, 33 M.C.C. 349; *Santa Fe Transp. Co., Common Carrier Application*, 33 M.C.C. 333; *Texas & Pacific M. Transport Co. Ext.—Pecos—El Paso, Tex.*, 33 M.C.C. 38; *Gulf Transport Co. Extension—West Point, Miss.*, 32 M.C.C. 762; *Frisco Transp. Co. Extension—Lake City, Ark.*, 32 M.C.C. 141; *Seaboard Air Line Ry. Co. Ext.—Motor Transp., Rhine, Ga.*, 31 M.C.C. 658; *Chicago & N.W. Ry. Co. Extension of Operations—Iowa*, 31 M.C.C. 455; *Chicago & N.W. Ry. Co. Common Carrier Application*, 31 M.C.C. 299; *Illinois Central R.Co. Extension—Kentucky—Tennessee*, 30 M.C.C. 477; *Chicago & N.W. Ry. Co. Extension—South Dakota*, 30 M.C.C. 379; *Rock Island M. Transit Co. Extension—Chicago—Joliet*, 30 M.C.C. 243; *Northern Pac. Transport Co. Extension—Yakima—Prosser*, 30 M.C.C. 58; *Rock Island Motor Transit Co. Extension—Wellman, Iowa*, 29 M.C.C. 695; *Pennsylvania Truck Lines, Inc., Com. Car. Appli., supra; Missouri Pac. R. Co. Com. Car. Application, supra; Louisiana, A. & T. Ry. Co. Common Carrier Application, supra; Seaboard Air Line Ry. Co. Extension—Tampa, Fla., supra; Pacific Motor Trucking Co. Common Carrier Appli., supra; Rock Island Motor Transit Co. Com. Car. Application, supra; Texas & P. Motor Transport Co. Ext.—Marshall, Tex., supra; Missouri Pac. R. Co. Extension—Arkansas—Louisiana, supra; Great Northern Ry. Co. Extension—Hobson—Lewistown, supra; Chicago, R. I. & P. Ry. Co. Ext.—Iowa, Mo., Kans. and Nebr., supra; Missouri Pac. R. Co. Extension of Operations—Illinois, supra; Gulf, M. & N.R. Co. Common Carrier Application, supra; Seaboard A.L. Ry. Co. M. Operation—Gaston—Garnett, S.C., supra; Texas & P. Motor Transport Co., Ext.—Big Spring—Pecos, Tex., supra; Texas & P. Motor Transport Co., Ext.—Wills Point, Tex., supra; Illinois Central R. Co. Common Carrier Application, supra; Texas & P. Motor Transport Co. Com. Car. Applic.—Louisiana, supra.*

ity to a railroad subsidiary pursuant to its practice of applying the proviso of Section 5(2)(b) to proceedings under Section 207 first was sustained by this Court in *Interstate Commerce Commission* v. *Parker*, 326 U.S. 60, 65 S. Ct. 1490. In reversing the lower court's setting aside of the Commission's order in *Willet Co. of Ind., Inc., Ext.—Fort Wayne—Mackinaw City*, 42 M.C.C. 721, this Court revealed its understanding of the Commission's obligation to consider railroad applications under Section 207 in the light of the limitations of Section 5(2)(b). The Court stressed and approved the fact that the Commission had restricted the certificate under consideration to the rendition of truck transportation which was "truly supplementary or auxiliary to the rail traffic", *id.* at 326 U.S. 63; 65 S. Ct. 1492, and that such limitation was consonant with the legislative history of the Motor Carrier Act which clearly was not intended to "bar" railroads from the operation of motor vehicles but which sought to limit such operations to "appropriate places." *Id.* at 326 U.S. 67, 65 S. Ct. 1494. The Court concluded, at 326 U.S. 69, 65 S. Ct. 1495:

> Since, however, on adequate evidence the Commission found that the motor service sought was of a different character from the existing motor service and not directly competitive or unduly prejudicial to the already certificated motor carriers, 42 M.C.C. 725-726, we hold that the Commission had statutory authority and administrative discretion to order the certificate to issue.

The converse is implicit in the Court's statement. In the absence of findings that the proposed motor-carrier service would be of a different nature from that presently being rendered by independent motor carriers, namely in auxiliary and supplemental service, and that it would not unduly restrain competition the Commission is without statutory authority to order the certificate to issue. Since the action of the Commission before the Court was

approval of an application for a certificate under Section 207 and no issue of acquisition was involved, the foregoing observation obviously represents recognition by the Court that the standards of Section 5(2)(b) must be applied by the Commission in a Section 207 proceeding. Such application would appear necessary because, in the words of this Court, "The Commission is trusted by Congress to guard against the danger of the development of a transportation monopoly . . . It has the duty to preserve the inherent advantages of each mode of transportation." *Id.*, at 326 U.S. 73, 65 S. Ct. 1497.

In a companion case, *American Trucking Ass'ns* v. *United States*, 326 U.S. 77, 65 S. Ct. 1499, this Court again looked to the requirements of Section 5(2)(b) in determining the validity of the Commission's grant of authority to a railroad in a Section 207 application proceeding. Reversing the decision of the lower court which had sustained the Commission's order in *Seaboard Air Line Ry. Co. Extension—Gaston—Garnett, S. C.*, 34 M.C.C. 441, the Court determined, at 326 U.S. 83, 65 S. Ct. 1502, that the Commission improperly excluded certain evidence offered to show the economic effect on the existing motor carriers of the proposed motor operation by the railroad and hence relevant to a finding that the proposed operation would be in the public interest and not unduly restrain competition. It is not sufficient, said the Court, that the Commission only find, as it did, that the railroad's trucking operations would be of a "specialized type coordinated with rail operations." Said the Court, at 326 U.S. 86, 65 S. Ct. 1503:

> It is not enough that the railroad's motor operations are found by the Commission to be of a different character from over-the-road motor operations because they are integrated with railroad operations. The Commission *must* also consider the disadvantage to the public of a serious impairment of the non-rail motor carriers. Those affected are entitled to fully

develop the bearing of the proposals on the transportation agencies which are involved. The discretion of the Commission should be exercised after consideration of all relevant information. [Emphasis added].

Patently, this evidence would have been irrelevant in a Section 207 proceeding were it not for the considerations required under Section 5(2)(b). Edward J. Hickey, Jr., "Surface Carrier Participation in Air Transportation Under the Civil Aeronautics Act", *Georgetown Law Journal*, Vol. 36, No. 2, January, 1948, pp. 125-153.

In the Rock Island *and* Texas & Pacific *Cases the Supreme Court Sustained the Commission's Imposition of Auxiliary and Supplemental Restrictions.*

Whatever doubt may have survived this Court's decisions in the *Parker* and *American Trucking* cases that the law required the Commission to examine a railroad's Section 207 application compatibly with the limitations of Section 5(2)(b) was dispelled by the Court's decisions in *United States* v. *Rock Island Motor Transit Co., supra*, and *United States* v. *Texas & Pacific Motor Transport Co.*, 340 U.S. 450, 71 S. Ct. 422, rendered February 26, 1951.

As was discussed previously herein, in the former case this Court reversed the decision of the three-judge district court which had set aside the order of the Interstate Commerce Commission in *Rock Island M. Transit Co.—Purchase—White Line M. Frt., supra*. The Commission had found that the motor-carrier operating rights purchased by the railroad subsidiary from Frederickson and White Lines, pursuant to Commission approval, should be subject in the future to the five conditions intended to limit the trucking operations to service auxiliary to, and supplemental of, the rail operations of the parent railroad. However, the lower court viewed the imposition

of the restrictions subsequent to the Commission's approval of the acquisitions without such express limitations as being a partial revocation of the authority granted and hence void unless in conformity with Section 212(a) prescribing the procedure for revocation.

This Court reversed, discussing at length the whole area of railroad ownership or control of motor-carrier operations. "The issues," said this Court in opening its remarks in the *Rock Island* case, *supra*, at 340 U.S. 422, 71 S. Ct. 385, "involve a basic power of the Commission to regulate the operations of motor carriers affiliated with railroads so as to assure that at all times the motor operations shall be consonant with the National Transportation Policy, 54 Stat. 899, 49 U.S.C.A., preceding section 301. The Commission has decided that that policy *requires* the motor operations of railroads and their affiliates to be auxiliary to and supplemental of train service." [Emphasis added.] In this construction this Court concurred.

Spelling out in greater detail what it understood the Commission's construction to be, the Court, after reciting the history of the proceeding, said, at 340 U.S. 427, 71 S. Ct. 387:

> The Commission understands the Declaration of Policy, §202(a) of the Motor Carrier Act, enacted at the inception of federal regulation of motor carriers in 1935, 49 Stat. 543, 49 U.S.C.A. §302, as directing it to preserve the inherent advantages of such transportation in the public interest. It finds support for this view in the National Transportation Policy set out in the 1940 amendments to the Interstate Commerce Act, 54 Stat. 899, declaring that the Act should be administered so as to recognize and preserve the inherent advantages of rail, motor and water transportation. It treats §213 of the Motor Carrier Act of 1935 and present §5 of the Interstate Commerce Act as authorizing mergers, consolidations and acquisitions between rail and motor car-

riers only within the Transportation Policy. Although §207, providing for the issuance of certificates of convenience and necessity, has no clause requiring special justification for railroads to receive motor-carrier operating rights, such as appears in the proviso in former §213 and present §5, the Commission applies the rules of the National Transportation Policy so as to read the proviso into §207 in order to preserve the inherent advantages of motor-carrier service.

The Court pointed out specifically, "The Commission has power at the time of its approval of an application to limit the authority to be granted by certificates of convenience and necessity for the operation of motor carriers, whether the certificate is issued on an original application under §207 or after acquisition under §213 of the Motor Carrier Act, §5(2), Interstate Commerce Act." 340 U.S. 430, 71 S. Ct. 389. The limitations restricting railroad motor-carrier operations to auxiliary and supplemental service, said the Court, were "in furtherance of the National Transportation Policy, for otherwise the resources of railroads might soon make over-the-road truck competition impossible." 340 U.S. 432, 71 S. Ct. 390. "The Commission reads into §207 the same requirement" that it does under §5(2)(b), continued the Court, and "thus a consistent attitude toward the use of motors by railroads is maintained." The Court's conclusion of a consistent attitude on the part of the Commission towards the consideration of railroad applications under Section 5(2)(b) and those under Section 207 takes on special meaning in the context of the Commission's precise pronouncement of what were its obligations under the law. In its brief in the *Texas & Pacific case* (relied on for the legal argument in the *Rock Island* case), wherein the restrictions placed upon motor-carrier operating rights attained by application under Section 207 as well as under Section 5(2)(b) were challenged, the Commission in the footnote on page 52 said:

> . . . if the motor operations of the railroad subsidiary were not a part of the railroad's operations at all, it would be a ***non sequitur*** to consider that the Commission should exercise its administrative judgment to determine whether or not the service by motor vehicle in such operations enabled the parent railroad to use motor service to public advantage in its operations or even to determine whether or not such operations unduly restrain competition. In short, as stated, the statute establishes as a first prerequisite to Commission approval, that the service by motor vehicle be for use by the railroad in its operations. It follows that, if the railroad subsidiary were to use the motor vehicle service in other operations, such, for example, as engaged in by independent motor carriers, a statutory presumption exists that such use would unduly restrain competition and is, therefore, forbidden by Congress.

Even assuming that this Court's observations were made gratuitously in the *Rock Island* case insofar as Section 207 proceedings were concerned, the Court relied upon its decision in the *Rock Island* case for rejecting all reasons for affirming the judgment below in the *Texas & Pacific* case, which, as previously stated, involved restrictions imposed upon Section 207 certificates. At 340 U.S. 458, 71 S. Ct. 426, the Court stated:

> So far as the . . . . issues relied upon by the District Court for its injunction are concerned, they seem to have been resolved in favor of the Government by our opinion in the Rock Island case. This proceeding involves certificates for new routes under §207. No such certificates or applications were in that case. The opinion, however, considered the Commission's practice in §207 proceedings and *stated that it was the same as in §§5 and 213 acquisition proceedings. We now hold that the same considerations justify the reservation in issue here.* [Emphasis added.]

It is clear, therefore, that in the *Rock Island* and *Texas & Pacific* cases this Court sustained the Commission's

construction of the National Transportation Policy as requiring the reading of the restrictive proviso of Section 5(2)(b) into Section 207. Under these decisions any grant of motor-carrier authority to a railroad or its subsidiary must be appropriately restricted to insure the rendition of only auxiliary and supplemental service.

The Commission Recognized, as Did the Railroads, That It Was Powerless to Issue Unrestricted Motor-Carrier Authority to Railroads.

The Commission's annual reports to Congress demonstrate its awareness that it is without authority to approve motor carrier operations by railroads or their motor-carrier affiliates beyond the extent that those operations can be coordinated with those of the railroad. In its *65th Annual Report* (1951) the Commission stated, at page 4:

> Some urge that the railroads, in order to improve service and reduce costs, should make greater use of motor transportation in conjunction with their rail operations. Our interpretations of the statute are criticized as placing undue restrictions on such use by not permitting "all motor" operations. This problem has been given thorough consideration. Our interpretations were sustained in *U.S.* v. *Rock Island*, 340 U.S. 419 and *U.S.* v. *T. & P.*, 340 U.S. 450. Legislation is required if there is need in the public interest for more liberal treatment of the railroads in this respect.

Again the following year the Commission observed that the law would have to be changed before it could authorize railroads to engage in all-motor operations, saying at page 3 of its *66th Annual Report* (1952):

> INTERAGENCY COMPETITION.—In our last report we discussed at length the forces which produce continued and great competitive thrusts among transportation agencies and the principles which guide us in passing on the issues which reach us for

decision. We also referred to railroad criticisms of what is looked upon as an unduly restrictive policy in dealing with railroad applications to engage in motor-carrier service. Shippers have expressed an interest in greater use of motor vehicles as a means of improving less-than-carload service.

> During the year there has been continued and apparently more concerted discussion in railroad quarters of the desirability of giving railroads more freedom in dealing with what they designate as managerial questions, particularly in the adjustment of rates and in the use of motor transport facilities. It is obvious that a substantial change in Congressional policy, particularly as it relates to intercarrier competition in its bearing on the public interest, is presented by this type of proposal, and that a more searching analysis of the possible advantages and disadvantages, and of the implications of such a change, must be made than any which thus far have come to our attention. There are a number of aspects of interagency competition which would be embraced in a broad review of the subject. It shows itself in forums concerned with matters with which we do not deal. We necessarily abstain from expressions of views here as to these issues or the broader problems of policy which they involve.

Only a short time ago, in its *68th Annual Report* (1954) the Commission again referred to its inability under the law to grant unrestricted motor-carrier authority to a railroad or its subsidiary. At page 5 the Commission said:

> INTEGRATION. Efforts to obtain a relaxation of our interpretations of what the Act permits in the operation of highway motor vehicles by railroads again were made during the year. We have adhered to our prior interpretations.

Nevertheless, even before the *68th Annual Report* was released to the public the Commission departed from its prior interpretations in issuing the report and order complained of herein, for the latter confers broad grants of

motor-carrier authority to the railroad's subsidiary free of any auxiliary and supplemental restrictions and in disregard of the requirement that the Commission must find that the proposed motor-carrier operations by the railroad will be of public benefit in its operations.

The unrelenting efforts of the railroads to have the Act amended clearly indicate that the Interstate Commerce Act does not permit the Commission to authorize a railroad, directly or through a subsidiary company, to engage in unrestricted motor carrier operations. Having challenged the interpretation heretofore consistently placed upon the Act by the Commission in the *Rock Island* and *Texas & Pacific* cases and having been denied judicial relief, the railroads have sought to attain their ends by legislative change. Over the years they have urged that the Act should be amended so that the Interstate Commerce Commission will have no choice but to treat a railroad seeking to acquire a motor carrier under section 5(2)(b) or to inaugurate a new motor carrier service under section 207 as if it were an ordinary applicant. The railroads have advocated the repeal of the special limitations on railroad acquisition of motor carriers expressly stated in Section 5(2)(b) and read into Section 207 and have asked that they be required simply to establish that the public convenience and necessity requires the proposed motor-carrier operation.

"The law should be so phrased," said Vice President R. V. Fletcher of the Association of American Railroads in a 1944 address, "as to place a carrier seeking permission to operate in another field in the same category as an individual asking for the right to enter the business." *Traffic World*, vol. LXXIII, no. 22, May 27, 1944, p. 1450. To the same effect the statement submitted by the A.A.R. in response to the 1946 inquiry of the House Committee on Interstate and Foreign Commerce said, "We think there should be no more restrictions against such con-

solidations [of carriers of different types] than apply to consolidations between carriers of the same type." P. Harvey Middleton, *Transportation Coordination in the U.S.*, Railway Business Association, Chicago, 1946. The study published in 1947 by the A.A.R. on *Transportation in America* recommended, "Rail carriers should have the right to engage, either directly or through subsidiaries, in motor-vehicle service on the highways on equal terms with all others, and without discrimination in favor of or against other transportation agencies in the same field. This should include the right to purchase, equally with all others, lines then in operation as well as to establish new lines."

The most illuminating of the railroad statements recommending legislative change was delivered on behalf of the Association of American Railroads by Witness W. L. Grubbs before the subcommittee of the Senate Committee on Interstate and Foreign Commerce holding hearings on Senate Resolution 50 of the 81st Congress, 2nd Session. His discussion of the limitations of Section 5(2)(b) commences on page 250 of the published hearings and is concluded at page 252 with the following statement:

> The railroad industry seriously questions the necessity for key-point restrictions in acquisition and in all new certificate cases, to accomplish the statutory purpose. It feels that the Commission has gone far beyond a proper interpretation of the will of Congress as expressed in the proviso of section 5(2)(b) to which I have referred.
>
> *Recommendation*
>
> We advocate that this proviso be so clarified as to preclude such an interpretation and enable it to be plainly understood that conditions should not be imposed which will operate to prevent economical and efficient use of motor vehicles in their service.

We believe this could be done by changing the following language of the proviso:

to use service by motor vehicle to public advantage in its operations—to read:

to provide an improved general transportation service to the public.

Only recently, months after the Interstate Commerce Commission had issued the orders complained of herein, Vice President J. Carter Fort of the A.A.R. testified before a subcommittee of the House Committee on Interstate and Foreign Commerce that "it has been the position of the railroads for years that they should have the same right as anyone else to engage in the trucking business . . . without any special limitations, upon a proper showing of the public convenience and necessity of the proposed truck operation." Hearings Before a Subcommittee of the Committee on Interstate and Foreign Commerce, House of Representatives, 84th Cong., 1st Sess., on the Report of the Presidential Advisory Committee on Transport Policy and Organization, 1955, p. 129-130.

The foregoing demonstrates that both the Commission and the railroads have believed the former is without authority to grant unrestricted motor rights to a railroad. The Commission has so informed Congress; and the railroads have besought Congress to change the law. Both have understood the law to require a railroad or its subsidiary to prove (1) that the motor operation is in the public interest, (2) that it will not unduly restrain competition and (3) that the motor service will be used to public advantage in the railroads' operations.

Yet in spite of its own decisions, of its reports to Congress, and of urging by railroad spokesmen that the law be amended to broaden the Commission's authority, the Commission here has assumed to grant an extensive, unrestricted motor carrier authority to Motor Transit. If a railroad can be awarded the right to operate as a

motor carrier over hundreds of miles of routes, free of any auxiliary and supplemental restrictions, upon a questionable showing of a public need for the motor carrier service, there is no need for the railroads to urge the amendment of the law. However, as the railroads have pressed for legislative change even after the Commission rendered its decision challenged herein, it would appear to be clear, even to the railroads, that the Commission granted the unrestricted authority to Motor Transit contrary to law.

There is No Valid Precedent for Commission's Action Here.

The Commission concluded its discussion in the report complained of herein with the gratuitious comment, at (R. 116), 63 M.C.C. 108:

> The findings hereinafter made are not to be construed as an abrogation of the policy established in *Kansas City S. Transport Co. Inc., Com. Car. Application, supra.* They represent an exception to that policy justified by the evidence in this proceeding.

However, in the *Kansas City Southern* case the Commission recognized that the language of Section 213 (now Section 5(2)(b)) showed that Congress had not been convinced that the railroads should be given "free opportunity to go into the kind of truck service which is strictly competitive with, rather than auxiliary to, their rail operations." No exception to that policy of Congress is permissible as none was provided by Congress itself. *Baltimore & A.R. Co.—Purchase—Bison Lines, Inc.*, 60 M.C.C. 509, 518. As Commissioner Alldredge said in his dissenting opinion, at (R. 119), 63 M.C.C. 111:

> The majority seems to pay some homage to this policy by declaring it to be sound and subject to relaxation "only where the circumstances clearly establish (1) that the grant of authority has not resulted and probably will not result in the undue re-

straint of competition, and (2) that the public interest requires the proposed operation, which the authorized independent motor carriers have not furnished, except where it suited their convenience." Congress, however, has not provided for any exclusions from its declared policy. That is a prerogative of Congress itself.

We anticipate that the Commission, as it did in the court below, will seek to justify its action in this proceeding by citing certain of the handful of cases—distinguishable and relatively unimportant—in which the Commission has attempted to carve out exceptions to the clearly-expressed Congressional policy that railroad applicants may be authorized to conduct trucking operations only in auxiliary and supplemental service. Essentially these were uncontested proceedings before the Commission, and in not a single instance known to these appellants was the Commission's decision in such a case subjected to judicial review. These cases fall largely into three clearly-defined categories.[12]

1. Where truck service is to be rendered to a point not on the line of the railroad and not adequately served by any other railroad or motor carrier. *Santa Fe Trail Transp. Co.—Purchase—Johnson*, 45 M.C.C. 653, 660; *Southern Pac. Transport Co.—Purchase—Reynolds*, 45 M.C.C. 617, 621; *Interstate Transit Lines, Ext.—Verdon, Nebraska*, 10 M.C.C. 665, 667; *St. Andrews Bay Transp. Co. Extension of Operations*; 3 M.C.C. 711, 716.

2. Where truck service is to be rendered over a short and insignificant extension and the existing truck service to which it will be tacked already is subject to appropriate restrictions. *Santa Fe Trail*

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[12]-A fourth group appears to have resulted from a tendency, corrected by the Commission's report in the *Rock Island case, supra*, at 40 M.C.C. 469, "to treat the Barker case restrictions as geographical or territorial only in their intent rather than as substantive limitations upon the character of the service which might be rendered by a railroad or its affiliate under any acquired right."

Transp. Co. Extension—New Mexico Points, 48 M.C.C. 85; *Texas & Pac. Motor Transport Co. Ext.—Point, Blue, La.*, 47 M.C.C. 425; *Rock Island Motor Transit Co. Ext.—Wellman, Iowa*, 31 M.C.C. 643.

3. Where the truck service, together with other motor carrier operations, will constitute the major portion of the applicant's business, the rail service having become unimportant. *ET & WNC Transportation Company—Control—The Inter City Trucking Company*, 60 M.C.C. 620; *ET & WNC Transportation Co.—Purchase—Huckabee*, 56 M.C.C. 50; *Louisville, N. A. & C. R. Co.—Purchase—Meerman*, 45 M.C.C. 6.

Even some of the cases cited by the Interstate Commerce Commission and the interveners in its behalf in support of their argument that the Commission's disposition of Motor Transit's application in this proceeding was not at variance from previous policies or practices, reflect the Commission's concern lest the railroads or their affiliates operate motor vehicles in unrestricted, competitive service. Thus in *Santa Fe Trail Transp. Co. Extension—Joplin*, 44 M.C.C. 474, 481, the Commission specifically restricted certain authorized operations "to service which is auxiliary to, or supplemental of rail service" and other operations by reserving the right to impose "such specific conditions as we in the future may find it necessary to impose in order to restrict applicant's operation to service which is auxiliary to, or supplemental of, rail service." In *Santa Fe Trails Stages, Inc. —Control-Central Arizona*, 1 M.C.C. 225, 231, the Commission, Division 5, deemed the grant of authority to result in "an operation auxiliary and supplementary to its rail operations." In *Santa Fe Trail Stages, Inc., Com. Car. App.*, 21 M.C.C. 725, 753, the Commission, Division 5, said of the proposed operations, "Coordination, such as that proposed, has been advocated and encouraged by the Commission and students of the transportation problem for a long time." In *Clinton, Davenport & Muscatine Ry.*

Co.—Ext.—Davenport—Clinton, 24 M.C.C. 250, 251; the Commission, Division 5, noted that "the proposed operation will take the place of an interurban electric railway freight service . . ." And finally in *Burlington Transp. Co. Ext.—Council Bluffs*, 28 M.C.C. 783, 790 the Commission, Division 5, observed that "when operations are commenced over the entire route applicant proposes to utilize the station facilities of the railroad, and coordinate the service with that of the railroad."

In view of the fact that the foregoing decisions contravene the policy of Congress, even though they are distinguishable from the Commission's action herein, appellants do not concede their validity. But, in any event, the all-out truck operations authorized to be conducted by Motor Transit between Chicago and Omaha, serving such additional major points as Cedar Rapids and Des Moines, cannot be squeezed into any one of the three categories of unrestricted motor-carrier authority heretofore awarded by the Commission to rail applicants. Nor do these categories permit of grouping under the broad generalization that the Commission has relaxed the bars to unrestricted truck operations by railroads or their subsidiaries "where the circumstances clearly establish (1) that the grant of authority has not resulted and probably will not result in the undue restraint of competition; and (2) that the public interest requires the proposed operation, which the authorized independent motor carriers have not furnished, except where it suited their convenience." (R. 108), 63 M.C.C. 102.

The precise language of Section 5(2)(b) of the Act and the clear intent of the National Transportation Policy permit of no exception to the bar that has been placed by Congress to railroads' operating trucks except in auxiliary and supplemental service. The Commission's attempts to lift the bar would be of no avail even if the circumstances herein lent themselves, as they

do not, to an accommodation with the exceptions that the Commission has attempted to fashion.

The Conditions Here Imposed Do Not, And Will Not, Limit the Railroad to the Rendition Of Auxiliary and Supplemental Service.

The Interstate Commerce Commission can be expected to attempt to bring the instant case within the framework of the *Kansas City Southern* case by stating, as it did in its motion to affirm, ". . . . it should not be overlooked that the Commission has imposed two conditions upon the motor carrier operating authority which it has given to Motor Transit." (p. 22.) These conditions are "(1) that there may be attached from time to time to the privilege granted herein such reasonable terms, conditions, and limitations as the public convenience and necessity may require, and (2) that all contractual arrangements between The Rock Island Motor Transit Company and the Chicago, Rock Island and Pacific Railroad Company shall be reported to us and shall be subject to revision, if and as we find it to be necessary in order that such arrangements shall be fair and equitable to the parties; . . ." (R. 117) 63 M.C.C. 109. Neither condition would currently limit Motor Transit's operations, or permit the future imposition of restrictions by the Commission to limit such operations to service auxiliary to, and supplemental of, the railroad's train service.

The first of these conditions is couched in the language of Section 208 of the Act, 49 U.S.C. §308, which provides that "there shall, at the time of issuance and from time to time thereafter, be attached to the exercise of the privileges granted by the certificate [of public convenience and necessity] such reasonable terms, conditions, and limitations as the public convenience and necessity may from time to time require, . . ." The con-

dition imposed by the Commission on the grant of authority herein adds nothing to the powers it already possessed by virtue of Section 208. On the contrary, as Commissioner Arpaia said in his dissenting expression, ". . . condition (1) in the findings is neutralized by the language in the discussion insofar as it adds any qualifications to those set forth in section 208 of the act." (R. 121), 63 M.C.C. 112.

In any event the language of Section 208 has never been held to abrogate the provisions of Section 212(a) of the Act, 49 U.S.C. §312(a). In substance Section 212(a) provides that a certificate of public convenience and necessity may be suspended, changed or revoked, in whole or in part, only after notice and hearing and only for willful failure to comply with the provisions of the Act or the orders, rules or regulations of the Commission promulgated thereunder. ". . . the Commission itself has held that unless it can find a reason to revoke a motor carrier's certificate, which reason is specifically set out in §212(a), it cannot revoke such a certificate under its general statutory power to alter orders previously made. Smith Bros., Revocation of Order, 33 M.C.C. 465.". *United States* v. *Seatrain Lines*, 329 U.S. 424, 430, 67 S. Ct. 435, 438.

The imposition of auxiliary and supplemental restrictions upon a certificate not previously limited in that respect would be held to be tantamount to a partial revocation of that certificate. Even where the certificate has been subject to an express reservation of the right to impose further limitations, restrictions or modifications to insure that the service remain auxiliary and supplemental, the Commission would not have unfettered power to change the certificate at will but only to accomplish the limited objectives contemplated by the reservation. *United States* v. *Rock Island Motor Transit Co.*,

supra, at 340 U.S. 435, 71 S. Ct. 391. The reservation herein would not permit the future limitation of the authority granted Motor Transit to confine its operations to an auxiliary and supplemental service. As Commissioner Alldredge pointed out in his dissent from the Commission's report and order assailed herein, "The phrase 'public convenience and necessity,' in the context in which it is used in the act, does not comprehend the full public interest in transportation envisaged by congressional policy." (R. 119-120), 63 M.C.C. 111. The general provisions of Section 208, herein repeated as condition (1), cannot be used to modify the specific requirement of the National Transportation Policy that the inherent advantages of all modes of transportation be retained. *United States* v. *Rock Island Motor Transit Co.*, *supra*, at 340 U.S. 436, 71 S. Ct. 392.

The other restriction imposed—"that all contractual arrangements between the Rock Island Motor Transit Company and the Chicago, Rock Island and Pacific Railroad Company shall be reported to us and shall be subject to revision, if and as we find it to be necessary in order that such arrangements shall be fair and equitable to the parties"—is equally impotent. The Interstate Commerce Commission, at page 23 of its motion to affirm, said, "the validity of this condition was sustained in *United States* v. *Rock Island Motor Transit Co.*, 340 U. S. 419, 436-444." However, these appellants on re-reading the *Rock Island* decision are unable to find any discussion of the restriction and its relationship to the limitation of railroads and their affiliates to insure the rendition of auxiliary and supplemental service. We have found however, that the Interstate Commerce Commission, in referring to the reporting requirement, has said, "In matters relating to compensation between the two companies, the railroad will in reality be dealing with itself and, so far as ultimate financial results to it are concerned, it is immaterial what these arrangements may be.

. . . Such information might be important in a rate proceeding or otherwise." *Frisco Transp. Co. Extension—Joplin—Miami*, 62 M.C.C. 367, 379; *Texas & Pacific Motor Transport Co. Com. Car. Application*, 47 M.C.C. 753, 763. The ability in the future to enforce an appropriate bookkeeping transaction, we are sure, is not what was had in mind when the Commission undertook the practice of imposing auxiliary and supplemental restrictions in response to the Congressional intent of limiting railroad motor-carrier operations. To jettison the other, more meaningful restrictions, keeping only the restriction that may or may not be of some academic interest and adding a restriction which merely repeats certain statutory authority, cannot be deemed to accomplish the legislative purpose. The restrictions imposed do not, and will not, insure that the Chicago, Rock Island and Pacific Railway Company will use the motor-carrier authority conferred upon its subsidiary, The Rock Island Motor Transit Co., to public advantage in its train operations, and yet under the National Transportation Policy and the provisions of the Interstate Commerce Act that is the limited extent to which it properly may operate motor vehicles for-hire in interstate and foreign commerce.

The Lack of Need for Service by the Railroad Subsidiary

There is No Evidence of Record That There Is Need For the Railroad's Unrestricted Motor Operations Between the Major Points.

While appellants disagree with the ultimate finding by the Interstate Commerce Commission that the public convenience and necessity require the proposed motor common carrier operations of The Rock Island Motor Transit Company, they concede that there was sufficient evidence of record to enable the District Court to sustain the Commission's order insofar as it authorized a bona

fide auxiliary and supplemental service to be rendered to and from such relatively minor points as Brooklyn, Colfax, Marengo, Newton, Oxford, Victor, Walcott and Wilton Junction. The District Court's statement (R. 194) that the so-called "peddle" traffic ". . . is really the traffic which is involved in the pending case" misconstrues the basis for the appeal. However, to the extent that the Commission's order finds that unrestricted service by Motor Transit between such major points as Chicago, Davenport, Cedar Rapids, Des Moines, Council Bluffs and Omaha is required by the public convenience and necessity, appellants contend that the District Court erred in failing to set aside the Commission's order for want of evidentiary support. In short, it is appellants' position that while the record before the Commission supports a grant of auxiliary and supplemental authority such as that embodied in the restricted certificate issued to Motor Transit on September 11, 1951, it supports no more. Findings of the Interstate Commerce Commission of the existence of public convenience and necessity not supported by evidence must be set aside. *Interstate Common Carrier Council* v. *United States*, 84 F. Supp. 414, 422, affirmed *per curiam*, 338 U.S. 843, 70 S. Ct. 91.

Under Section 206(a)(1) of the Interstate Commerce Act, 49 U.S.C. §306(a)(1), no common carrier by motor vehicle subject to the Act may operate on the highways without a certificate of public convenience and necessity. Section 207, 49 U.S.C. §307, provides for the issuance of the certificate on application if the proposed service "is or will be required by the present or future public convenience and necessity." A "finding" of public convenience and necessity was made by the Commission, (R. 116) 63 M.C.C. 108, but to be lawful that ultimate finding must have been based on the proper statutory criteria and must have had the necessary factual findings to

support it. *Interstate Commerce Commission* v. *Parker*, *supra*, at 326 U.S. 64, 65 S. Ct. 1492.

The term "public convenience and necessity" as used in the Act is not defined by the statute, and the difficulty of laying down any general rule by which it can be determined whether or not certificates of public convenience and necessity should be issued long has been recognized. *Cf. San Antonio & A.P. Ry. Co. Construction*, 111 I.C.C. 483, 493. The purpose underlying the requirement of a finding of public convenience and necessity was said by this Court in *Texas & N.O.R. Co.* v. *Northside Belt Ry. Co.*, 276 U.S. 475, 479, 48 S. Ct. 361, 362, to be "to prevent interstate carriers from weakening themselves by constructing or operating superfluous lines, and to protect them from being weakened by another carrier's operating in interstate commerce a competing line not required in the public interest." This statement of general purpose has been refined into a policy of the Interstate Commerce Commission of fostering sound economic conditions in the motor carrier industry by according existing motor carriers the right to transport all traffic which they can handle adequately, efficiently and economically in the territories served by them. *Clark-Callahan, Inc.*, 41 M.C.C. 693, 706; *Gabler Common Carrier Application*, 21 M.C.C. 713; *C. & D Oil Co., Contract Carrier Application*, 1 M.C.C. 329, 332. As the Court said in *Hudson Transit Lines* v. *United States*, 82 F. Supp. 153, 157, affirmed *per curiam*, 338 U.S. 802, 70 S. Ct. 59:

> The Commission has frequently held that under §207 of the Act, 49 U.S.C.A. §307, there must be an affirmative showing not only that a common carrier service is required in the convenience of the public but also that it is a necessity, and that the latter element includes a showing that present facilities are inadequate. Pan-American Bus Lines Operation, 1 M.C.C. 190, 203; Bluenose Bus Co. Ltd., Common Carrier Application, 1 M.C.C. 173, 176; Richard L. Richards, Extension of Operations, 6 M.C.C. 80, 81;

Ohio Transportation Co., Common Carrier Application, 29 M.C.C. 513, 520; Royal Cadillac Service, Inc., Common Carrier Application, 43 M.C.C. 247, 259. The courts, too, have recognized inadequacy of existing facilities as a basic ingredient in the determination of public "necessity". Inland Motor Freight v. United States, D. C. E. D. Wash. 60 F. Supp. 520, 524. See also Interstate Commerce Commission v. Parker, 326 U.S. 60, 69, 70, 74, 65 S. Ct. 1490, 89 L. Ed. 2051 and dissenting opinion of Mr. Justice Douglas. This does not mean that the holder of a certificate is entitled to immunity from competition under any and all circumstances. Chesapeake & O. R. Co. v. United States, 283 U. S. 35, 51 S. Ct. 337, 75 L. Ed. 824. The introduction of a competitive service may be in the public interest where it will secure the benefits of an improved service without being unduly prejudicial to the existing service. Interstate Commerce Commission v. Parker, supra. No such finding has here been made, nor is there any evidence to support such a finding.

The record is utterly devoid of testimony showing a need by the public for motor carrier service between the major points along the routes involved—Chicago, Omaha, Des Moines, Tri-Cities, Iowa City, Grinnell, Newton and Atlantic. Yet, based on testimony affecting the very small points between those larger cities, the Commission, with no pretense of finding a public need for service, would grant Motor Transit authority to serve those larger cities in an unrestricted service. The record proves there is no need for such service.

What must have prompted the Commission's action is a misplaced sympathy for Motor Transit. As will be developed more fully, *infra*, p. 65, the Commission's fundamental error was in treating Motor Transit as a separate entity and not as an integral part of the Rock Island family, so that the advantage to Rock Island of having Motor Transit render even an auxiliary and supplemental service to the smaller Iowa points was obscured by the

supposed disadvantage to Motor Transit in not serving the larger points as well.

The Testimony of Shipper and Carrier Witnesses Reveals Ample Service Between the Major Points.

In the instant proceeding the record lends no support to a finding that the public convenience and necessity require the service of Motor Transit between the major points referred to. Witness after witness testifying in support of the application by Motor Transit acknowledged that there was no need for such service. For example, Judge Carl Reed, Chairman of the Iowa State Commerce Commission, testified that service to the larger communities such as Davenport, Des Moines and Omaha was adequate, and that his Commission had no complaints regarding service to such points. (R. 744-745). Similar acknowledgements were made by virtually each of the shipper and Chamber of Commerce witnesses. In short, out of the multitude of more than 150 witnesses offered by Motor Transit in support of its application not one gave the slightest indication of a need for this type of service.

A representative of the Chicago Association of Commerce and Industry, testifying for applicant, observed that, "We have approximately four hundred common carrier truck lines out of Chicago and there is plenty of service to the larger points." (R. 247). This witness referred to a motor carrier directory which named twenty-two carriers serving Davenport from Chicago (R. 251-252); ten among those serve Iowa City; at least four serve Grinnell (R. 252); at least nine serve Newton (R. 255); and at least six serve Atlantic. (R. 256). The witness stated that there is "probably not" any demand for additional motor carrier service between Chicago and Omaha. (R. 253). Other witnesses for Motor Transit

also testified as to ample service to and from the larger points.

A representative of the Davenport Chamber of Commerce knew of twenty-seven motor carriers operating between Chicago and the Tri-City (Davenport, Moline and Rock Island) area and rendering good daily service. (R. 234).

A representative of the Cedar Rapids Chamber of Commerce was aware that at least fifteen motor carriers operate between that city and Chicago (R. 1124).

A representative of the John Deere Plow Company admitted that there was no difficulty experienced in getting service to points such as Des Moines and Omaha. (R. 469).

A representative of the Omaha Chamber of Commerce was able to recall the names of eight substantial motor carriers having a service between Omaha and Chicago which he described as a "regular established service". (R. 1361). He knew of four substantial carriers serving Omaha from Twin-Cities (R. 1365). Regular service exists between Kansas City and Omaha. (R. 1365).

A representative of the Iowa City Chamber of Commerce described the available trucking facilities as one of the city's "outstanding attractions." (R. 485).

Representatives of several motor carriers rendering service in the area involved presented testimony at the hearings. The testimony of just three of these is summarized in Appendix B to further demonstrate that the record reveals ample service between the major points.

There is no evidence in the record to buttress a finding of public need for additional service at the larger points. Any conclusion reached by the Commission that there is a public need for more motor carrier service at such points is not supported by basic facts and, on the con-

trary, is actually refuted by the testimony of witnesses testifying on behalf of Motor Transit, and the independent motor carriers as well.

The Commission's Failure to Guard Against the Danger of the Development of a Rock Island Monopoly

The Railroad Would Sustain Its Trucking Subsidiary With Freight, Facilities, Funds and Personnel.

This Court, in the *Parker* case, *supra,* at 326 U. S. 73, 65 S. Ct. 1497, clearly set forth the Commission's continuing obligation, in dealing with applications by railroads or their affiliates to perform motor-carrier service, "to guard against the danger of the development of a transportation monopoly." It would be difficult to imagine a record which more strongly evokes the need for strict adherence by the Commission to this admonition than that herein—or one in which it has been so completely ignored.

Motor Transit possesses at least four distinct competitive advantages to which no independent motor carrier can successfully aspire.

First, the policy of the Iowa State Commerce Commission in granting intrastate monopolies insures that only Motor Transit can render intrastate motor carrier service between the Iowa points and along the routes herein involved. (R. 98, 114), 63 M.C.C. 94, 107. Second, Motor Transit receives rail-billed traffic from its railroad affiliate to swell its volume, fill empty space in its trucks and increase its revenues. (R. 113), 63 M.C.C. 106. Third, at many points where no Motor Transit representative is stationed the railroad depot agent assumes his functions. (R. 111); 63 M.C.C. 104. Fourth, and probably most important of all, whereas independent motor carriers must conduct their financial affairs within the rigid confines of economic reality, Motor Transit, as revealed by its an-

nual reports to the Commission, is able, through heavy subsidization of the parent railroad, to obtain huge sums to finance equipment purchases and similar transactions. (R. 104), 63 M.C.C. 99.

The advantages accruing to Motor Transit over its independent motor carrier competition through receipt of rail-billed traffic are obvious. Included are the opportunity to operate vehicles at maximum efficiency, with resultant higher revenues and profit, a choice of rates (rail or motor) given the shipper, and, of course, more traffic. Another obvious advantage in receiving this traffic is the opportunity it gives to achieve a balanced movement, the importance of which is indicated by the opinion of Motor Transit's General Manager, "You haven't a chance if you can't balance your operations." (R. 1408-1409).

One witness' testimony is of particular value in demonstrating the practical advantage to a carrier which can maintain a representative or agent continually available for contact in a town. (R. 800-804). Admittedly it is not economically feasible for Motor Transit or any other motor carrier to maintain an agent at every point which it might have authority to serve. But Motor Transit does have this advantage: at many of the points which are too small to justify maintenance of such a representative, the railroad depot agent performs the function without apparent cost to Motor Transit. At Dexter, Iowa, for example, the railroad station agent accepts payments due Motor Transit, and claims may be made through him. (R. 1188). Other examples of points where this strategically advantageous situation exists are Altoona (R. 865), Atalissa (R. 956), Ladora (R. 455), Mitchelville (R. 829), and Wilton Junction, (R. 961). The record reveals numerous others.

The Commission itself is obviously cognizant of this tremendous advantage as seen from the comment in its report, "Motor Transit is able to provide such complete

service because it maintains freight agents at many points on its routes and the other motor carriers have them located at some of the larger points only." (R. 111), 63 M.C.C. 104. These agents, however, are railroad freight agents available to Motor Transit only because of its affiliation, and insofar as the record shows, are a great advantage obtained *at no cost* to Motor Transit.

Indicative to some extent of the financial support given Motor Transit by its railroad parent is the fact that as of January 31, 1952, advances to Motor Transit payable to Rock Island totalled some $837,527. (R. 97), 63 M.C.C. 94. The Commission's report admits the existence of this financial assistance. (R. 104), 63 M.C.C. 99. Among independent motor carriers such an advance would be deemed to be very large and of great benefit.

It is sufficient here to point out that "all of the capital for the Rock Island Motor Transit Company has been provided by the railroad, either by purchase of common stock, or in the way of advancements by loans or otherwise". (R. 1399).[13] And thus the applicant is relieved from facing the economic facts of life which independent motor carriers must look straight in the eye. What is additionally apparent is that the railroad has achieved substantial savings by using its affiliate as a substitute for way-freight service (R. 213)—and now seeks to profit further by using that affiliate in unrestricted motor carrier operations, which profit can only be derived by diminishing the revenues of independent motor carriers.

Many other advantages arise by reason of this dual status of Motor Transit, the joint use of communications systems being but one. (R. 853). Another disclosed by the record is the extensive use by Motor Transit of Rock Island's freight houses, some of which are used only by

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[13] Rock Island's President testified regarding railroad loans for the purchase of motor carrier equipment. (R. 218).

the motor carrier and not by its principal. (R. 226). Yet another is the opportunity to balance traffic which is predominantly eastbound by rail and westbound by motor carrier. (R. 1417-1418).

In addition, something should be said respecting the criticism by the Commission of the independent motor carriers which, it is indicated, have failed to provide adequate service to the small Iowa points involved. Without admitting the gravity of the failure alleged, it is proposed to explore a reason for the situation. Strangely enough, the Commission does not seem to consider it of any importance that these independent motor carriers, unlike Motor Transit, have no indulgent parent, ever ready to supply the wherewithal in money, equipment and labor necessary to undertake the motor vehicle service rendered, with little or no regard to the cost of performing such service. In this proceeding it may be entirely true that the independent motor carrier protestants, because of the economic reality that they must profit or die altogether, could not match the service sought to be provided by their subsidized competitor. Indeed, the Commission's report itself seems to recognize that the underlying basis for the failure of the independent motor carriers to render a greater service to the smaller Iowa points is the simple fact that, in contrast with Motor Transit, they are rarely tendered freight by the shippers involved. (R. 111) 63 M.C.C. 104. Be that as it may, the criticism of their alleged service failures by the Commission seems largely unjustified when it is recognized, as it must be, that the service afforded by Motor Transit is made possible only by raiding the coffers of the parent railroad, and by the intrastate monopoly granted it by the Iowa State Commerce Commission. A combination of these two factors comprises, in effect, a raid upon the independent motor carriers, forcing them into an economic and service straitjacket.

The record herein leaves a good deal to be desired in the way of details of the financial arrangements between Motor Transit and its parent, the Chicago, Rock Island and Pacific Railway Company. Witnesses were not too helpful in supplying such details. An investigation by the Commission into these matters might have proved very revealing. In the absence of such investigation the appellants herein, in their petition for reconsideration of the Commission's report, invited the attention of the Commission to Motor Transit's last annual report, for 1953, filed with the Commission. Of course, the Commission could have noted officially the content of that report. *Market St. Ry. Co.* v. *Railroad Commission*, 324 U.S. 548, 562, 65 S. Ct. 770, 777.

Schedule 9002 of that annual report, listing the salaries of the officers and directors of Motor Transit, shows that more than 93 percent of total salaries of eleven general officers are paid by the railroad. The total salary ($75,000) of the president of Motor Transit is assumed by the railroad. As a matter of fact, the only expenditures charged against the motor carrier for the payment of salaries of its officers are portions of the salary of one of the vice presidents and the general manager, totaling $11,700.00. The parent railroad, on the other hand, pays $168,006.83 in salaries to these officers of its motor subsidiary.

Schedule 9009, covering contracts and agreements with affiliated companies, reveals that the parent railroad has agreed to transport the freight of Motor Transit for 1¼ cents per ton-mile. Assuming that the payload capacity of the subsidiary's vehicles is 15 tons, this means that the transportation cost to the subsidiary is 19 cents per truck-mile (without regard to the classification of the tonnage) whenever the parent railroad performs the service covered by the contract referred to. In these days of high operating costs, when the average motor carrier

cost is 51 cents per truck-mile,[14] Motor Transit is fortunate indeed to make such a bargain. And, when it is considered that the charge involved probably includes loading and unloading paid for by the parent railroad, the arrangement is found to be truly gilt-edged so far as the motor subsidiary is concerned.

The figures reflecting operations and maintenance expenses (Schedule 4000 in the Annual Report Form, but consolidated for passenger and property expenses and labeled "Schedule 4002" by Motor Transit) indicate that the motor subsidiary incurred operating rents of $18,022.00. Considering that it operates 6,049 route miles in inter-city service (Schedule 9001), grossed $5,677,962.00 in 1953 (Schedule 2930-A), and makes extensive use of the terminals of the parent railroad at nearly every city, town or hamlet covered by its operating authority, it would appear that the rentals it pays to the parent railroad do not begin to represent fair charges for use of the property involved.

Finally, Schedule 2200, Advances Payable—Affiliated Companies, emphasizes the extremely openhanded policy of the railroad toward its motor subsidiary. Listed are a so-called demand note for $400,000 and an "open account," also for $400,000, covering monies owed the railroad by Motor Transit. The demand note, issued September 1, 1943, bears interest at the rate of 4%. Its age clearly indicates that the railroad is obviously in no hurry to "demand" repayment, but what is more important is the fact that no lending institution would make such a loan to an independent motor carrier unless it were fully secured by mortgage of its operating property. The "open account" referred to, on which Motor Transit pays not one penny interest, seems nothing less than a

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[14] Interstate Commerce Commission, Bureau of Transport Economics and Statistics, *Statistics of Class I Motor Carriers for Year Ended December 31, 1953*, page 39.

generous handout by the railroad to its prodigal offspring.

Having demonstrated that the applicant in this proceeding is heavily subsidized by its parent railroad, the all-important question comes naturally to mind: Does the Commission propose, in every case in which independent motor carriers are unable to match the subsidized competition of rail subsidiary motor carriers, to authorize unrestricted service to such subsidiaries on the ground that the shipping public has an inherent right to receive more than a dollar's worth of such service for every dollar spent, so long as the parent railroad is willing to pick up the tab for the difference? Even assuming the Commission's power to issue unrestricted certificates to railroad subsidiaries, fundamental fairness would seem to require that it first be fully informed with respect to the cost of service proposed to be rendered, and, fortified with such information, be prepared to require that each competitor for the traffic involved stand on an equal footing with the other to secure it.

We submit such unfair competition, destructive of the inherent advantages of truck transportation, was what the Congress clearly intended to prevent, and the facts of record, although incomplete, amply support the legislative wisdom.

The Annihilation of Independent Motor Carriers Would Confer a Monopoly Upon the Railroad.

The record clearly demonstrates that independent motor-carrier competition along the involved Iowa routes has already been restrained. Complete freedom in motor carrier operations by the Rock Island's subsidiary will unquestionably insure an even greater restraint than now exists.

Admittedly, the Commission has recognized in its decision that prerequisite to approval of the application

herein must be a finding that competition will not be restrained. It said:

> The main purpose for the policy of imposing the five above-quoted restrictions, or modifications thereof, was to prevent the railroads from acquiring motor operations through affiliates and using them in such a manner as to unduly restrain competition of independently operated motor carriers. (R. 108), 63 M.C.C. 102.

However, the conclusion was reached that:

> Thus the operations of applicant have not unduly restrained competition, and there is no evidence that its proposed operations would produce such a result. (R. 113), 63 M.C.C. 106.

This finding is simply not in accordance with the facts, and indeed the record proves precisely the opposite.

Motor Transit's officials are cognizant of their dominant position as proved by the comment of its General Manager. "Yes, we have both the intrastate and the interstate authority in this area, and if you didn't have the combination of the interstate, the intrastate, the truck billing, and the rail billing, you just couldn't even begin to get started to maintain the cost of operation." (R. 1388). Since no independent motor carrier has all this, Motor Transit by this application is seeking to seal tight its present near-monopoly. But compare the above admission with the same witness' pious protestation:

> . . . I am sure on an equal basis that we can hold our own. We don't ask for any advantages. All we ask is to be on an equal basis. (R. 1409).

The Commission apparently accepted this view. But, in fact, the only way to achieve an "equal basis" would be for Motor Transit to surrender its intrastate monopoly, or for the State of Iowa to grant intrastate rights to the independent motor carriers. Since both these ends are impossible to appellants, the idea of "equal" competition is unrealistic, untrue and preposterous.

The privilege of doing intrastate business is an advantage distinct and readily apparent to an interstate carrier.[15] A number of the witnesses herein have testified to shipping both within the State of Iowa and beyond. If only one carrier can be offered the intrastate traffic, can it be disputed that this same carrier automatically obtains a tremendous competitive advantage on traffic moving outside the state either simultaneously or at differing times? Nor can it be denied that the volume and revenue so gained can enable the monopolizing carrier to conduct a better balanced, more efficient and, therefore, a more profitable operation than its independent competitor could hope to achieve on the same route.

One is moved to observe that the Commission in this proceeding is permitting itself to be dominated by the Iowa Commission's policy of intrastate monopoly. Because only Motor Transit is favored along these routes by that policy, it is to become favored also by the Federal Commission by removal of those restrictions which would tend to insure its interstate use only in operations auxiliary to or supplemental of those of its parent railroad. The Commission's report observes, "that such peddle operations could not be profitably operated with interstate traffic only." (R. 114), 63 M.C.C. 107. Therefore, it concluded, we must remove all restrictions from the Iowa Commission's nominee—a railroad affiliate—to increase further its stranglehold on the motor carrier traffic to the smaller points in the area.

The Commission Committed a Fundamental Error.

The fundamental error which led the Commission to completely reverse its settled construction of the law rests on a dual basis: first, its peculiar inability, or

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[15] As one witness observed, "where we have our interstate shipments and intrastate both delivered by the same carrier, it makes it a convenience to us." (R. 786).

unwillingness, to view Motor Transit in its true light; second, its failing memory respecting the purpose of the railroad's original entry into the field of limited motor transport. Somewhere along the tortured path of these proceedings, sometime during the more than fifteen years which elapsed between the filing of the White Line and Frederickson applications and the decision complained of herein, the Commission seems to have lost sight of both those facets of this case. But when they are viewed in their proper light, the situation comes into focus.

Motor Transit is a railroad subsidiary. By the grant here opposed, it would become the unrestricted alter ego of the railroad between two major cities, Chicago and Omaha, separated by approximately 500 miles.[16] As a captive motor carrier, it would compete with the railroad and with the independent motor carriers between important cities over great distances. By failing to recall Motor Transit's true nature, the Commission has convinced itself that the rail subsidiary's desire to perform a completely independent motor carrier service has merit sufficient to warrant its ignoring the statutory mandate against granting such authority. Had it remembered what Motor Transit is, and the great growth of its parent, it might have weighed the affected transportation equation in its entirety.

The Commission expresses solicitude for the claimed plight of the parent railroad when it states, (R. 113), 63 M.C.C. 106, that its less-than-carload traffic has consistently declined over a five-year period, while in the same breath admitting that Motor Transit's tonnage has

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[16] Actually, this understates the magnitude of the authority which the Commission would grant. As pointed out at page 9, *infra*, the rail subsidiary, through "tacking," could also perform unrestricted operations between other major points.

increased. And this concern over the declining l-c-l tonnage—costly to perform and usually shown as a deficit figure in Commission statistics—is nowhere matched either by pertinent inquiry or by comment as to the railroad's fortunes in the transportation of carload traffic which is the fiscal lifeblood of any railroad operation. Had the Commission's preoccupation with the alleged financial predicament of the applicant not been so intense, a look at the carload tonnage figures would have quickly disabused its thinking respecting the claimed need to carve out such a massive exception to the *Barker* and *Kansas City Southern* cases, *supra*, as it professes to find in this proceeding. From 1940 to 1952, the year the hearings were held in the latest phase of this seemingly endless proceeding, the parent railroad's carload tonnage increased from almost 24 million tons to 42½ million tons. Over this same period the revenue accruing from the transportation of this carload tonnage rose from sixty-five million dollars to nearly one hundred eighty million dollars, an increase of nearly 300%![17] In these circumstances, the bleating plea of poverty of the subsidiary of this well-to-do transportation giant should have fallen on extremely deaf ears.

Moreover, the Commission seriously erred in ignoring completely the purpose of the railroad's entry into the motor carrier business. As the earlier reports of the Commission in this proceeding demonstrated, the ostensible purpose of allowing the railroad to perform *any* motor carrier service was to permit it to substitute the more efficient motor truck for obsolescent way-train and peddle car service theretofore performed by the railroad itself. But the Commission forgot this reason for making the grant to the railroad and became preoccupied with

[17] Source: Freight Commodity Statistics, Class I Railways in the United States, published by the ICC's Bureau of Transport Economics and Statistics.

the alleged costly nature of the peddle service by Motor Transit which in turn motivated its grant of authority to that carrier to perform volume service between points as to which the record clearly shows there is already adequate service. Since the cost of this peddle truck service is less than the cost of performing the inefficient rail service it has replaced, it is obvious that there is no reason for going further and granting a wholly unrestricted motor service, completely unrelated to the rail service. Thus the Commission, over the protests of independent motor carriers, has placed the railroad in a position to compete effectively with the former for small-lot traffic while retaining its dominant position with respect to volume tonnage. In this manner, it seeks to bestow its largesse upon the Rock Island family through an unprecedented grant of authority to Motor Transit to perform completely unrestricted truck service throughout the length and breadth of the Rock Island empire. A better case could not be found to illustrate the wisdom of the Congressional mandate against allowing just such motor carrier operations by the railroads.

The Commission's fundamental error here is sharply exposed by its earlier thinking, as set forth in its brief in the *Texas and Pacific* case:[18]

> **The difference between the *Parker* case and the case now before the Court is that, in the former, the railroad subsidiary was defending its right to perform a closely coordinated l.c.l service in substitution for way-train service against the contentions of non-railroad motor carriers that even such restricted service was an encroachment on their field of transportation, whereas, in the present case, the railroad subsidiary, having crossed the line of permissible and nonpermissible motor service open to railroads is in effect insisting that it is its right to fully enter into**

[18] Joint brief of the Commission and the United States in No. 38, *U.S.* v. *Texas and Pacific Motor Transport Co.*, October, 1950, Term.

the motor carrier field. Transport supported its applications on the basis of the economies, more efficient and expeditious service, that would result from the use of motor for train service. It then used the limited authority granted to cross the line into the field of general motor carrier operations. Thus it revealed the trend toward monopoly which Congress feared and guarded against by enacting section 213 (now sec. 5) and by making it the Commission's duty to administer the Act so as to preserve the inherent advantages of each mode of transportation.

As previously stated, the Commission's decision herein abruptly reverses its consistent interpretation, followed for many years, of the pertinent provisions of the Interstate Commerce Act and the National Transportation Policy. In addition, it is grossly unfair in its effect upon the operations of numerous independent motor carriers authorized to serve between the major points directly and indirectly involved.

The conclusion is inescapable that the grant of authority which would enable the rail subsidiary to perform unrestricted motor-vehicle service between such major points as Chicago, Omaha, Des Moines, Kansas City and Minneapolis-St. Paul, without a scintilla of evidence in support thereof, is nothing more than an effort by the Commission to penalize the independent motor carriers for their alleged failure to render sufficient service to the small Iowa points involved. We have previously discussed the handicaps under which the independent motor carriers labor in their efforts to compete with the subsidized operations of the rail subsidiary, buttressed by the intrastate monopoly conferred by the Iowa Commerce Commission. But aside from that aspect of the case, the Commission's award of authority to the rail subsidiary to perform unrestricted motor service between major points as to which its own witnesses denied there was need for added motor carrier service, brings about completely incongruous results.

Assuming, *arguendo*, that the independent motor carrier appellants have, without excuse, failed to render proper service to the small Iowa points involved, the Commission's grant of authority to Motor Transit to serve the major cities nevertheless does not stop at "punishing" them. Its punitive effects go a lot deeper. Its action also severely harms the interests of other independent motor carriers authorized to provide service to some or all of the major points involved, which lack authority to serve the Iowa points on the White and Frederickson routes. The Commission made no finding in this proceeding that *all* independent motor carriers serving Chicago, for example, have failed to provide adequate service to other points authorized by their franchises. Yet all such carriers, whether or not they are authorized to serve the small Iowa points, are to be abruptly faced with the prospect of dual competition for Chicago traffic by the railroad, on the one hand, and the unrestricted trucking operations of the railroad's subsidiary, backed by all its parent railroad's financial resources, on the other.

Although the Commission took pains to point out that its decision under review herein is "not to be construed as an abrogation of the policy established in *Kansas City S. Transport Co., Inc., Com. Car. Application*," (R. 116), 63 M.C.C. 108, we sincerely doubt the Commission's ability to make its words stick. If its decision is allowed to stand, the Commission will shortly be presented with requests for unrestricted truck operating authority by the *rail* competitors of the Rock Island, which it will be unable to resist. The ability to conduct all-out truck operations will be a potent competitive weapon in the hands of the Rock Island Railroad, not only with respect to its independent motor carrier competitors, but also as respects its railroad competition. What then, would the Commission, having placed this weapon in the Rock Island's hands, say to one of its *rail* competitors seeking

equal treatment. To the railroad whose traffic was being diverted to the Rock Island by virtue of its ability to offer all-rail, all-motor, or a combination rail-motor service, throughout its territory, would the Commission, in effect, say: "No, we allowed Rock Island to perform unrestricted truck service only because it was able to satisfy us that certain independent motor carriers failed to render a satisfactory service to some small points also served by the Rock Island. Unless you can make a similar showing, we cannot allow you to institute unrestricted truck service in order to better compete with the Rock Island." We think such an answer highly unlikely. To the contrary, we believe the Commission would feel constrained to allow the Rock Island's rail competitors equal opportunity to perform all-out motor operations. And bearing in mind the overlapping of railroad systems throughout the country, it would be only a short time until all railroads would claim a need to perform such service in order to stay competitive with other railroads.

Need For Reexamination of the *Parker* Doctrine

The imposition of a restriction limiting Motor Transit in its operations between designated key points, prohibiting service to, through or from more than one of the named points, would not assure the rendition of an auxiliary and supplemental motor service. If the service is to be a purely auxiliary and supplemental service, then in the words of Mr. Justice Douglas, dissenting in *Interstate Commerce Commission* v. *Parker*, *supra*, at 326 U.S. 77, 65 S. Ct. 1498, ". . . let the service be limited to commodities which have a prior or subsequent rail haul." In his dissenting opinion therein Mr. Justice Douglas, at 326 U.S. 75, 65 S. Ct. 1497, said:

> If, as the Commission at first required (Kansas City Southern Transp. Co., 10 M.C.C. 221), this motor carrier service was restricted to goods which had a

prior or subsequent rail haul, the service might properly be designated as an auxiliary or supplemental one. But the Commission changed its position and withdrew that condition. Kansas City Southern Transp. Co., 28 M.C.C. 5. The key-point condition was substituted. Between those points the railroad will operate like any motor carrier. The service which it seeks to render is not a combined rail-and-truck service. As the Commission states in its report in the present case, "The railroad, through its subsidiary, merely seeks the substitution of a more efficient for a less efficient means of service." This "substituted" service differs from the adequate, independent motor carrier service already existing only in its being under railroad control. In that respect and in that respect alone is the service of a new and different character.

The absence of any statutory or I.C.C.-determined standards for the establishment of key points, together with the ease of securing Commission authority for the modification of whatever key-point restrictions may be imposed, makes it clear, as was implicit in Mr. Justice Douglas's statement, that the imposition of key-point restrictions is inadequate to insure the rendition of an auxiliary and supplemental service by a railroad-affiliated motor carrier. The most notorious and one of the most recent examples of how the naming of key points can become a mere rhetorical exercise occurred in the proceeding in which the Commission approved the purchase by Pacific Motor Trucking Company, a wholly-owned subsidiary of the Southern Pacific Company, of the franchise and property of Pacific Freight Lines, which at the time was the largest independent motor carrier operating in the State of California. The applicant for Commission approval, in the face of the vigorous protests of motor carriers serving the area, consented to the designation of certain suggested key points. Of these the Commission in its report and order in Docket No. MC-F-5783, *Southern Pacific Company—Control; Pacific Motor Trucking*

Company—Purchase—Pacific Freight Lines, 70 M.C.C. 5, dated June 4, 1956, and served June 26, 1956, said:

> Furthermore, it appears such points, other than Santa Barbara, are rather small, the population of Harold, Newhall Ranch, and Vernalis apparently consisting of less than 300 persons. There is no indication that any of such points have facilities adaptable to the operations proposed under the unified rights or that such smaller points have any justified basis for selection as key points. Considering that PMT could perform a through operation under the key points, it proposes from points in the San Joaquin Valley to points in the Imperial Valley, approximately in some instances distances of 600 miles, it is apparent that the key points selected by applicants would permit operations unrelated to the rail operations of So Pac, and competitive with its rail operations and operations of existing motor carriers.

Nevertheless, by "corrected" sheets issued June 27, 1956, the Commission approved the imposition of those very key points. What made the Commission's abuse of its discretion particularly callous was its complete disregard of the Examiner's conclusion that the basic reason for the acquisition by Pacific Motor Trucking Company of the operating rights of Pacific Freight Lines was to remove a substantial operator from the field of competition by independent motor carriers. At sheet 15 of his proposed report the Examiner had said:

> The very liberal consideration to be paid in the transaction might be warranted from the standpoint of the purchasers, by removing PFL, one of the largest, if not the largest motor carrier in the Pacific Coast area, as a formidable competitor of PMT and its parent railroad, which appears to be the primary objective of the proposal.

Not only did the Commission completely ignore the Examiner's conclusion that the purchase would not be in the public interest, but in approving the purchase the Commission imposed key-point restrictions that would be

wholly ineffectual in confining the Pacific Motor Trucking Company's operation of the rights acquired from Pacific Freight Lines to service auxiliary and supplemental of the train service of the Southern Pacific Company.

In Docket No. MC-30605, *The Santa Fe Trail Transportation Company—Petition for Modification of Certificate*, 64 M.C.C. 461, the Commission removed Dodge City, Kansas, as a key point, thereby allowing the motor-carrier subsidiary of the Atchison, Topeka and Santa Fe Railway Company to "operate like any motor carrier" between Wichita, Kansas, on the east, and Pueblo, Colorado, on the west. The Commission at 64 M.C.C. 469-470, said:

> No doubt petitioner [Santa Fe Trail Transportation Company] and Railway could change their present pattern of operations and thus effect some operating economies; however, we doubt if little could be accomplished in the way of operating economies or efficiency so long as the Dodge City key-point restriction remains in effect, because the most practical route for the movement of the greater portion of available traffic is over highways that pass through Dodge City. The evidence is convincing that removal of this restriction would result in substantial benefit of petitioner and the supporting shippers. True, its removal would enable petitioner to provide all-truck service for distances of 500 miles or more, and more effectively to compete with the independent motor carriers; however, the all-truck service would not result in any substantial diversion of traffic . . .

The Commission's liberality in modifying such key-point restrictions as it may impose and its haphazard designation of key points to begin with have enabled such railroad-affiliated carriers as Pacific Motor Trucking Company and Santa Fe Trail Transportation Company to rank among the biggest motor carriers in the country. Pacific Motor Trucking Company is, revenue-wise, the tenth largest motor carrier of property having had oper-

ating revenues in the year 1956 of $29,071,328, and Santa Fe Trail Transportation Company is the 46th with 1956 operating revenues of $11,997,175. Surely these railroad-affiliated motor carriers would not have grown to such awesome proportions if their operations had, indeed, been effectively restricted to service auxiliary to, or supplemental of, the train service of their parent railroads. Their size alone would seem to bear testimony to the inefficacy of the key-point manner of restricting their service. Only the imposition of prior or subsequent rail haul restrictions would assure that railroad-subordinate motor carriers confine their activities in aid only of the rail operations. Such a restriction should be a condition in every grant to a railroad or an affiliated motor carrier to render motor service, whether by acquisition under section 5(2) or by application under section 207. As Mr. Justice Douglas said so concisely, ". . . let the service be limited to commodities which have a prior or subsequent rail haul."

In short, the recent history of the Commission's administration of the provisions of the National Transportation Policy and the Interstate Commerce Act relating to railroad operation of motor vehicles indicates that it has abandoned its obligation, set forth in *Parker, supra,* at 326 U.S. 73, 65 S. Ct. 1497, "to guard against the danger of the development of a transportation monopoly." The time has come, we believe, for this Court to forcefully remind the Commission of this mandate and to take steps to insure that it is faithfully obeyed, in this case and others of similar nature which may follow. The most appropriate method by which this Court can achieve this objective is to require the Commission in this case, and others which involve rail use of motor vehicles, to impose, as a minimum, a restriction limiting such use to the transportation of shipments having a prior or subsequent rail haul. Only by such a holding can the Court insure that the Congressional policy intended to main-

tain and promote a healthy, independent, motor carrier industry, will not become a dead letter.

Wherefore, it is urged that the judgment of the District Court be reversed and the case remanded to the District Court with instructions to set aside the Commission's report and order insofar as it authorizes Motor Transit to render service not confined to auxiliary and supplemental operations and for disposition otherwise consistent with this Court's opinion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Peter T. Beardsley, one of the attorneys for appellants herein, and a member of the bar of the Supreme Court of the United States, hereby certify that, on the twenty-sixth day of August, 1957, I served copies of the foregoing document on the several parties herein as follows:

1. On the United States, by mailing a copy in a duly addressed envelope, with postage prepaid, to Oliver Gasch, United States Attorney for the District of Columbia, at Room 3600-A, United States Court House, Washington, D. C., and by mailing a copy in a duly addressed envelope, with postage prepaid, to The Solicitor General, Department of Justice, Washington 25, D. C.

2. On the Interstate Commerce Commission, by mailing a copy in a duly addressed envelope with postage prepaid, to Robert Ginnane, Esq., its General Counsel, at the offices of the Commission, Washington 25, D. C.

3. On the Rock Island Motor Transit Company, intervening defendant, by mailing a copy in a duly addressed envelope with airmail postage prepaid, to A. B. Howland, Esq., its attorney, at 500 Bankers Trust Building, Des Moines 9, Iowa.

4. On the Employees' Committee of Rock Island Motor Transit Co., Davenport Chamber of Commerce, et al., and Shippers' Committee, intervening defendants, by mailing a copy in a duly addressed envelope with airmail postage prepaid, to D. C. Nolan, Esq., their attorney, at Suite 405, Iowa State Bank Bldg., Iowa City, Iowa.

5. On the Railway Labor Executives' Association, Brotherhood of Railroad Trainmen, and Order of Railway Conductors and Brakemen, intervening plaintiffs, by mailing copies, in a duly addressed envelope, with post

age prepaid; to James L. Highsaw, Jr., their attorney, at 620 Tower Bldg., Washington, D. C.

6. On the National Industrial Traffic League, *amicus curiae*, by mailing a copy in a duly address 1 envelope, with airmail postage prepaid, to John S. Burchmore, Esq., its attorney, at 2106 Field Building, Chicago 3, Illinois.

PETER T. BEARDSLEY

APPENDIX A

NATIONAL TRANSPORTATION POLICY

[*September 18, 1940.*] [*49 U. S. C., preceding §§ 1, 301, 901, and 1001.*] It is hereby declared to be the national transportation policy of the Congress to provide for fair and impartial regulation of all modes of transportation subject to the provisions of this Act, so administered as to recognize and preserve the inherent advantages of each; to promote safe, adequate, economical, and efficient service and foster sound economic conditions in transportation and among the several carriers; to encourage the establishment and maintenance of reasonable charges for transportation services, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices; to cooperate with the several States and the duly authorized officials thereof; and to encourage fair wages and equitable working conditions;—all to the end of developing, coordinating, and preserving a national transportation system by water, highway, and rail, as well as other means, adequate to meet the needs of the commerce of the United States, of the Postal Service, and of the national defense. All of the provisions of this Act shall be administered and enforced with a view to carrying out the above declaration of policy.

* * * * *

COMBINATIONS AND CONSOLIDATIONS OF CARRIERS

SEC. 5. [*As amended August 24, 1912, February 28, 1920, June 10, 1921, June 16, 1933, June 19, 1934, August 9, 1935, September 18, 1940, and August 2, 1949.*] [*49 U. S. C. § 5.*]

* * * * *

(2) (a) It shall be lawful, with the approval and authorization of the Commission, as provided in subdivision (b)—

(i) for two or more carriers to consolidate or merge their properties or franchises, or any part thereof, into one corporation for the ownership, management, and operation of the properties theretofore in separate ownership or for any carrier, or two or more carriers jointly, to purchase, lease or contract to operate the properties, or any part thereof, of another; or for any carrier, or two or more carriers jointly, to acquire control of another through ownership of its stock or otherwise; or for a person which is not a carrier to acquire control of two or more carriers through ownership of their stock or otherwise; or for a person which is not a carrier and which has control of one or more carriers to acquire control of another carrier through ownership of its stock or otherwise; or

(ii) for a carrier by railroad to acquire trackage rights over, or joint ownership in or joint use of, any railroad line or lines owned or operated by any other such carrier, and terminals incidental thereto.

* * * * *

(b) Whenever a transaction is proposed under subparagraph (a), the carrier or carriers or person seeking authority therefor shall present an application to the Commission, and thereupon the Commission shall notify the Governor of each State in which any part of the properties of the carriers involved in the proposed transaction is situated, and also such carriers and the applicant or applicants (and, in case carriers by motor vehicle are involved, the persons specified in section 205 (e)), and shall afford reasonable opportunity for interested parties to be heard. If the Commission shall consider it necessary in order to determine whether the findings specified below may properly be made, it shall set said application for public hearing; and a public hearing shall be held in all cases where carriers by railroad are involved unless the

Commission determines that a public hearing is not necessary in the public interest. If the Commission finds that, subject to such terms and conditions and such modifications as it shall find to be just and reasonable, the proposed transaction is within the scope of subparagraph (a) and will be consistent with the public interest, it shall enter an order approving and authorizing such transaction, upon the terms and conditions, and with the modifications, so found to be just and reasonable: *Provided*, That if a carrier by railroad subject to this part, or any person which is controlled by such a carrier, or affiliated therewith within the meaning of paragraph (6), is an applicant in the case of any such proposed transaction involving a motor carrier, the Commission shall not enter such an order unless it finds that the transaction proposed will be consistent with the public interest and will enable such carrier to use service by motor vehicle to public advantage in its operations and will not unduly restrain competition.

* * * *

APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Sec. 206. [*August 9, 1935, amended June 29, 1938, September 18, 1940, September 1, 1950.*] [*49 U.S.C., § 306.*] (a) (1) Except as otherwise provided in this section and in section 210a, no common carrier by motor vehicle subject to the provisions of this part shall engage in any interstate or foreign operation on any public highway, or within any reservation under the exclusive jurisdiction of the United States, unless there is in force with respect to such carrier a certificate of public convenience and necessity issued by the Commission authorizing such operations: *Provided, however*, That, subject to section 210, if any such carrier or predecessor in interest was in bona fide operation as a common carrier by motor vehicle

on June 1, 1935, over the route or routes or within the territory for which application is made and has so operated since that time, or if engaged in furnishing seasonal service only, was in bona fide operation on June 1, 1935, during the season ordinarily covered by its operation and has so operated since that time, except in either instance as to interruptions of service over which the applicant or its predecessor in interest had no control, the Commission shall issue such certificate without requiring further proof that public convenience and necessity will be served by such operation, and without further proceedings, if application for such certificate is made to the Commission as provided in paragraph (b) of this section and within one hundred and twenty days after this section shall take effect, and if such carrier was registered on June 1, 1935, under any code of fair competition requiring registration, the fact of registration shall be evidence of bona fide operation to be considered in connection with the issuance of such certificate. Otherwise the application for such certificate shall be decided in accordance with the procedure provided for in section 207 (a) of this part and such certificate shall be issued or denied accordingly. Pending the determination of any such application the continuance of such operation shall be lawful: *And provided further*, That this paragraph shall not be so construed as to require any such carrier lawfully engaged in operation solely within any State to obtain from the Commission a certificate authorizing the transportation by such carrier of passengers or property in interstate or foreign commerce between places within such State if there be a board in such State having authority to grant or approve such certificates and if such carrier has obtained such certificate from such board. Such transportation shall, however, be otherwise subject to the jurisdiction of the Commission under this part.

(2) Unless otherwise specifically indicated in such certificate, the holder of any certificate heretofore issued

under this part, or hereafter issued under this part pursuant to an application filed on or before the date on which this paragraph takes effect, authorizing the holder thereof to engage as a common carrier by motor vehicle in the transportation in interstate or foreign commerce of passengers or property over any route or routes or within any territory, may without making application under this section engage, to the same extent and subject to the same terms, conditions, and limitations, as a common carrier by motor vehicle in the transportation of passengers or property, as the case may be, over such route or routes or within such territory, in commerce between places in the United States and places in Territories or possessions of the United States.

(3) Subject to the provisions of section 210, if any person (or its predecessor in interest) was in bona fide operation on March 1, 1950, over any route or routes or within any territory, as a common carrier engaged in the transportation of passengers or property by motor vehicle in commerce between any place in the United States and any place in a Territory or possession of the United States, and has so operated since that time (or if engaged in furnishing seasonal service only, was in bona fide operation on March 1, 1950, during the season ordinarily covered by its operations and has so operated since that time), except in either instance as to interruptions of service over which such applicant or its predecessor in interest had no control, the Commission shall issue a certificate authorizing such operations without requiring further proof that public convenience and necessity will be served thereby, and without further proceedings, if application for such certificate is made to the Commission as provided in paragraph (b) of this section and within one hundred and twenty days after the date on which this subparagraph takes effect. Pending the determination of any such application, the continuance of such operation without a certi

~~ficate shall be lawful. Any carrier which, on the date this~~ subparagraph takes effect, is engaged in an operation of the character specified in the foregoing provisions of this subparagraph, but was not engaged in such operation on March 1, 1950, may under such regulations as the Commission shall prescribe, if application for a certificate is made to the Commission within one hundred and twenty days after the date on which this subparagraph takes effect, continue such operation without a certificate pending the determination of such application in accordance with section 207 (a).

(b) Application for certificates shall be made in writing to the Commission, be verified under oath, and shall be in such form and contain such information and be accompanied by proof of service upon such interested parties as the Commission shall, by regulation, require. Any person, not included within the provisions of paragraph (a) of this section, who or which is engaged in transportation in interstate or foreign commerce as a common carrier by motor vehicle when this section takes effect may continue such operation for a period of one hundred and twenty days thereafter without a certificate and, if application for such certificate is made to the Commission within such period, the carrier may, under such regulations as the Commission shall prescribe, continue such operation until otherwise ordered by the Commission.

ISSUANCE OF CERTIFICATE

SEC. 207. [*August 9, 1935.*] [*49 U.S.C., § 307.*] (a) Subject to section 210, a certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of this part and the requirements, rules,

and regulations of the Commission thereunder, and that the proposed service, to the extent to be authorized by the certificate, is or will be required by the present or future public convenience and necessity; otherwise such application shall be denied: *Provided, however,* That no such certificate shall be issued to any common carrier of passengers by motor vehicle for operations over other than a regular route or routes, and between fixed termini, except as such carriers may be authorized to engage in special or charter operations.

(b) No certificate issued under this part shall confer any proprietary or property rights in the use of the public highways.

TERMS AND CONDITIONS OF CERTIFICATE

SEC. 208. [*August 9, 1935.*] [*49 U.S.C., § 308.*] (a) Any certificate issued under section 206 or 207 shall specify the service to be rendered and the routes over which, the fixed termini, if any, between which, and the intermediate and off-route points, if any, at which, and in case of operations not over specified routes or between fixed termini, the territory within which, the motor carrier is authorized to operate; and there shall, at the time of issuance and from time to time thereafter, be attached to the exercise of the privileges granted by the certificate such reasonable terms, conditions, and limitations as the public convenience and necessity may from time to time require, including terms, conditions, and limitations as to the extension of the route or routes of the carrier, and such terms and conditions as are necessary to carry out, with respect to the operations of the carrier, the requirements established by the Commission under section 204 (a) (1) and (6): *Provided, however,* That no terms, conditions, or limitations shall restrict the right of the carrier to add to his or its equipment and facilities over the routes, between the termini, or within the territory speci-

fied in the certificate, as the development of the business and the demands of the public shall require.

SUSPENSION, CHANGE, REVOCATION, AND TRANSFER OF CERTIFICATES, PERMITS, AND LICENSES

SEC. 212. [*August 9, 1935, amended June 29, 1938, September 18, 1940.*] [*49 U.S.C., § 312.*] (a) Certificates, permits, and licenses shall be effective from the date specified therein, and shall remain in effect until suspended or terminated as herein provided. Any such certificate, permit, or license may, upon application of the holder thereof, in the discretion of the Commission, be amended or revoked, in whole or in part, or may upon complaint, or on the Commission's own initiative, after notice and hearing, be suspended, changed, or revoked, in whole or in part, for wilful failure to comply with any provision of this part, or with any lawful order, rule, or regulation of the Commission promulgated thereunder, or with any term, condition, or limitation of such certificate, permit, or license: *Provided, however,* That no such certificate, permit, or license shall be revoked (except upon application of the holder) unless the holder thereof willfully fails to comply, within a reasonable time, not less than thirty days, to be fixed by the Commission, with a lawful order of the Commission, made as provided in section 204 (c), commanding obedience to the provision of this part, or to the rule or regulation of the Commission thereunder, or to the term, condition, or limitation of such certificate, permit, or license, found by the Commission to have been violated by such holder: *And provided further,* That the right to engage in transportation in interstate or foreign commerce by virtue of any certificate, permit, license, or any application filed pursuant to the provisions of section 206, 209, or 211, or by virtue of the second proviso of section 206 (a) or temporary authority under section 210a, may

be suspended by the Commission, upon reasonable notice of not less than fifteen days to the carrier or broker, but without hearing or other proceedings, for failure to comply, and until compliance, with the provisions of section 211 (c), 217 (a), or 218 (a) or with any lawful order, rule, or regulation of the Commission promulgated thereunder.

(b) Except as provided in section 5, any certificate or permit may be transferred, pursuant to such rules and regulations as the Commission may prescribe.

APPENDIX B

C. A. GRACEY

(Record pp. 1502-1580)

Mr. Gracey is Vice-President of the Iowa-Nebraska Transportation Company, Inc. (R. 1502). The principal office and one of its terminals is located at Avoca, Iowa, one of the points included in applicant's request for authority. (R. 1503).

The company in addition to its Avoca terminal has terminals located in New York, New York, Chicago, Illinois, Des Moines, Iowa, and Omaha, Nebraska at which points it maintains full time employees and provides pick up and delivery service. In addition to said terminals the company maintains agents at Davenport, Iowa City, Cedar Rapids, Marshalltown, Sioux City, Ames, Nevada, and Boone, Iowa. These agents are independent cartage companies and make the pick ups and deliveries at said points. (R. 1504).

The company has authority to and is presently serving in interstate commerce all points located in the State of Iowa situated on U.S. Highway 6 and Omaha, Nebraska. It conducts an operation over Iowa Highways 83 and 64 between Atlantic, Iowa, and Omaha, Nebraska, serving all intermediate points. It operates between Cedar Rapids and Iowa City over U.S. Highway 218. (R. 1506).

The company is providing peddler service to points lying along U.S. Highway 6 and over Iowa Highways 83 and 64. It is also providing peddler service to Cedar Rapids, Iowa City and intermediate points on U.S. Highway 218. (R. 1507). To all of these points it provides delivery service and pick up service where traffic demands it. It handles interline freight for delivery at these points originating at Chicago, Des Moines, and Omaha. Likewise it turns over to connecting lines at

Chicago, Des Moines, and Omaha freight that is destined to points beyond its line which is picked up in these various communities. (R. 1508). It renders service on L.T.L. shipments as well as truckload shipments to all points. (R. 1509-1510).

Exhibit #30 lists the shipper witnesses who appeared in support of the application from various towns involved. (R. 1928). Of these the Iowa-Nebraska Transportation Company serves Adair, Altoona, Anita, Atlantic, Casey, Cedar Rapids, Colfax, Coralville, Council Bluffs, Davenport, Des Moines, Dexter, Durant, Grinnell, Harlan, Ladora, Marne, Marengo, Menlo, Mindon, Mitchellville, Newton, Neola, Oakland, Stuart, Tiffin, Underwood, Walnut, and Wilton Junction, Iowa. Referring to the list of witnesses from each town, witness testified that he was familiar with many of the names and that they were consignees rather than shippers and that his company served many of them. In most cases it is on less than truckload shipments. (R. 1510-1511).

Exhibits No. 31, 32 and 33 are lists of representative shipments indicating the services that have been performed from September 27, 1951 to April, 1952, by the company, for the communities involved in this application. (R. 1939-1956). These exhibits were prepared from delivery sheet records and the underlying data made available to all those present in the hearing room. (R. 1511). Exhibit 31 covers shipments originating in Omaha destined to the communities involved, (R. 1512), Exhibit 32 covers the same type of shipments originating at Des Moines (R. 1512), and Exhibit 33 the same out of Chicago. (R. 1513). It should be noted that as here used the word origin means either point of origin on Iowa-Nebraska Transportation lines or origin through connecting line source. (R. 1513).

The equipment of the company in the great majority of cases is being used to full capacity. In the event that

additional equipment should be necessary to handle any increased demands for service in the territory, the company is in a position and is willing to add such needed equipment. Mr. Gracey did not know of any occasions where freight was destined to or originated at any points involved in this application where the company refused or otherwise neglected to pick up the shipment. (R. 1515).

JOE BOS

(Record pp. 1638-1664)

Mr. Bos is president of the Bos Truck Lines, Inc. with headquarters at Marshalltown, Iowa. (R. 1638). It is authorized to serve all intermediate points located on U.S. Highway 6 in the State of Iowa. (R. 1639-1640).

The company owns sixty trailers, forty tractors and seventeen straight trucks and does some leasing besides. (R. 1640). It has terminals located in Chicago, Marshalltown, Des Moines and Omaha. (R. 1640).

The company renders a daily service between Chicago and Omaha over both U.S. Highway 6 and 30. It always has one or two trucks daily on U.S. 6 out of Omaha to Des Moines and two or three trucks out of Chicago to Des Moines on U.S. 6. It runs about six to seven trucks in and out of Chicago and out of Marshalltown. It could haul more freight than it is now hauling with the same equipment. (R. 1640). It maintains eight pick-up and delivery trucks and about seven to ten semi-trailers in Des Moines at all times. At Omaha it keeps about six pick-up trailers and three or four semi-trailers at all times. (R. 1641).

It is rendering service on U.S. Highway 6 at the present time. It has never refused to render any service on Highway 6. It has teletype service between its various terminals. It interlines freight with other carriers at

Des Moines, Omaha, Chicago, and Tri-Cities. It solicits business and advertises for business and is continuously and constantly seeking to haul more freight. (R. 1641-1642).

The company is rendering a daily service from Chicago to Des Moines, from Des Moines to Chicago, from Des Moines to Omaha and from Omaha to Des Moines. From Omaha to Chicago there are some trucks that do not stop while other trucks stop at points on Highway 6. It has had no complaints with reference to the service it is rendering to intermediate points on U.S. Highway 6. (R 1644).

The company renders a daily service at Council Bluffs, Davenport and the Tri-Cities. (R. 1649). It has authority between Cedar Rapids and Omaha and conducts an operation between those points. (R. 1651).

It has not, in the last six months, had any calls for service on L.T.L. shipments of ordinary merchandise destined to the small towns on U.S. Highway 6 that it has refused to handle. In fact, it has guides out, and is soliciting business. (R. 1650).

If a sufficient volume of freight were tendered to this company to warrant the institution of the operation, it would be willing to establish a daily service to all points which it is authorized to serve on U.S. Highway 6, providing service on L.T.L. as well as volume shipments. (R. 1650).

The present competition between Chicago, Tri-Cities, Des Moines and Omaha includes Watson Bros. Transportation Co., Des Moines Transportation Company, Iowa-Nebraska Transportation Company, Carstenson Freight Line and there are some others. If the restriction is removed from the Rock Island Motor Transit Company it would have a big effect on his company's business. (R. 1650-1651).

Bos Truck Lines interlines with other carriers at Marshalltown, Cedar Rapids, Des Moines and Omaha, including Iowa-Nebraska Transportation, Rock Island Motor Transit, Des Moines Transportation Co., Roberts Transfer and others. (R. 1652).

A. W. HOBBS

(Record pp. 1665-1710)

Mr. Hobbs is Vice-President of the Des Moines Transportation Company, Inc. (R. 1665). The company presently operates approximately three hundred tractor-trailer units, with terminals located at Des Moines, Omaha, Mason City, Twin Cities, St. Paul, Chicago and Davenport. (R. 1666).

It operates a daily service between Chicago, the Tri-Cities, Des Moines and Omaha in both directions and conducts daily operations between the Twin Cities and Des Moines. (R. 1666).

It has interline arrangements at Des Moines with respect to shipments destined to Kansas City or St. Louis originating at the Twin Cities and is at present handling a substantial volume of traffic of that kind. The principal carrier with which it interlines at Des Moines for Kansas City is Knaus Freight Lines. With respect to St. Louis, Missouri, it interlines with various carriers. It interlines with other carriers at all of its terminals. (R. 1666-1667).

The company operates one or more trucks, depending on the tonnage, daily from Chicago to Omaha, Nebraska. From Chicago to Des Moines it operates several trucks daily. Except for straight load traffic, the Chicago-Tri-City shipments are loaded on a truck destined to points west of the Tri-Cities. It has a daily truck operation eastbound from Omaha to Chicago and a daily operation eastbound from Des Moines to Chicago. With respect to L.T.L. shipments originating at Chicago or delivered to

Des Moines Transportation by another carrier at Chicago destined to Iowa City, they are loaded on a road truck and delivered to Maher Bros. Transfer at Iowa City. This is a daily operation if there is freight. (R. 1670). A shipment originating at Chicago, or delivered to Des Moines Transportation Company, Inc., by another carrier at Chicago destined to Marengo would be loaded on a road truck at Chicago and delivered direct to the customer at Marengo. A similar shipment destined to Grinnell would be delivered to the Pasch Transfer at Grinnell for delivery. A similar shipment to Kellogg, Iowa, would be delivered direct from the road trailer. A similar shipment to Newton, Iowa, would be delivered to Merchants Transfer at Newton, Iowa. A similar shipment to Atlantic, Iowa, would be delivered to Smiley Transfer Company, and a similar shipment to Council Bluffs, Iowa, would be delivered out of the Omaha Terminal. (R. 1671).

For the purpose of showing representative types of shipments, witness Hobbs produced Manifest Sheets for the months of January and February, 1951 and for the same months in the year 1952. These sheets were available in the hearing room. (R. 1673). The witness picked at random two of the Manifest Sheets for the month of January, 1951, two for the month of February, 1951 and two for January, 1952 and two for February, 1952. Exhibits 37, 38, 39 and 40, (R. 1979-1982), are Manifest Sheets typical of the type of shipments which are handled by this company from Chicago to points located on U.S. Highway 6 which it is authorized to serve. (R. 1674). It is their practice to accept small L.T.L. shipments for delivery at these points. As a matter of fact, 81% of the total of them average less than 600 pounds. (R. 1675).

Witness selected five Manifest Sheets for the year 1951 and five for the year 1952 at random, which refer to shipments handled by Des Moines Transportation Com-

pany between Des Moines and the Davenport Terminal. They are handled on a truck moving from Des Moines eastward which peddles on the return trip. In other words, it peddles to points they are authorized to serve on Highway 6. Manifest Sheet bearing heading Des Moines Transportation Company from Des Moines to Davenport January 10, 1951 is Exhibit 41. Exhibit 42 is a similar Manifest Sheet dated January 4, 1951. Exhibit 43 is a similar Manifest Sheet bearing date of February 3, 1952 and Exhibit 44 is a similar Manifest Sheet bearing date February 19, 1952. (R. 1676-1678, 1983-1990).

Exhibit 45 dated February 5, 1951, Exhibit 46 dated February 1, 1951, Exhibit 47 dated January 27, 1952 and Exhibit 48 dated February 5, 1952, are manifests on trucks that moved on Highway 6 that had deliveries to the towns of Kellogg and Marengo. This is a movement east from Des Moines. (R. 1679).

With respect to all points that the Des Moines Transportation Co. is authorized to serve on Highway 6 it is rendering a daily service or substantially daily service to every point on every shipment irrespective of the type, except for the point Adel which is not involved in this application. There is a carrier that serves Adel from Des Moines. In fact, there are several. (R. 1684).

In the event there was a curtailment or an abandonment of any existing transportation service which is available to the public to points located on Highway 6 it would be willing to file an application for authority to provide a daily peddle service to all points on Highway 6 and, if such authority were granted, it would be willing to perform the service. This would also be true insofar as intrastate traffic is concerned. It would attempt to get that type of authority. (R. 1686-1687).

The company is willing to accept interline freight at Davenport from other carriers destined to points on U.S. Highway 6 which it is authorized to serve, and that is

true with respect to any type or weight of shipment. (R. 1687).

A L.T.L. shipment picked up in the Twin Cities today would arrive in Des Moines tomorrow and be delivered to a point served on U.S. Highway 6 the next day. The same would be true with an interline shipment from Kansas City, if it were received today by 3:30, which is the cut-off time. It would be loaded out tonight for points on U.S. 6. From Chicago to such points as Marengo and other points, other than Des Moines and the Tri-Cities, shipments would be loaded on a truck at Chicago late tonight and peddled, for example, at Marengo direct tomorrow. (R. 1687-1688).

There is a lot of competition between Chicago and Omaha including, On Time, Watson Bros. Transportation Company, Red Ball Transportation Company, Merchants Motor Freight, Rock Island Motor Transit, I.T.I. and Union. It is fair to say at least five or six substantial carriers are coming into Des Moines from Chicago. There are more than five substantial carriers from Minneapolis to Des Moines. (R. 1688).

If the restrictions were lifted from the Rock Island Motor Transit Company, that company would be the very highest type competitor and it would have an effect upon business. If Rock Island is limited to an auxiliary and supplemental service to train service with key-point restrictions preventing through operations from Chicago to Des Moines, and from Chicago to Omaha by motor carrier, it would not be as competitive from an operational standpoint. (R. 1688-1689).

Tonnage-wise about 50% of Des Moines Transportation Co. traffic is interline traffic. Shipment-wise about 46%. (R. 1707). It interchanges with Iowa-Nebraska Transportation Company and other carriers. No claims have been called to its attention regarding Iowa-Nebraska Transportation Company. (R. 1708).

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SEP 25 1957
JOHN T. FEY, Clerk

IN THE

Supreme Court of the United States

OCTOBER TERM, 1957

NO. 6

AMERICAN TRUCKING ASSOCIATIONS, INC., et al.,
Appellants,

vs.

UNITED STATES OF AMERICA, and INTERSTATE COMMERCE COMMISSION,
Appellees.

On Appeal From The United States District Court
For The District of Columbia

BRIEF OF THE NATIONAL INDUSTRIAL TRAFFIC LEAGUE AS AN AMICUS CURIAE

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September, 1957

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THE INTEREST OF THE NATIONAL INDUSTRIAL TRAFFIC LEAGUE

The League is a nationwide organization of shippers via all forms of transportation, including railroads, motor carriers, water carriers, and air carriers. The organization is dedicated to the promotion of sound economic transportation.

Broadly speaking, the League has an interest on behalf of its membership, as representative of the shipping public, in the principles and policies governing the regulation of

transportation. It is, therefore, concerned with the interpretation by the Courts and by the Interstate Commerce Commission of the provisions of the National Transportation Policy and the Interstate Commerce Act.

In particular, the League is concerned that the public need for adequate and competitive service by all modes of transportation shall be the paramount consideration in the determination of applications for motor carrier authority, and in the determination in a particular case, as to whether the needed highway transport service shall be performed by a railroad affiliated motor carrier.

In this case the Commission granted operating rights for motor transport service to a railroad owned motor carrier without attaching to the certificate any condition limiting the service to be performed to that which would be auxiliary or supplemental to the railroad service of the affiliated railroad. It is the contention of appellants that as a matter of law the proviso in 49 U.S.C. 5(2)(b) and the National Transportation Policy forbid such unrestricted certificates to rail affiliated motor carriers. The question thus presented, in which the League is interested, is as stated by appellants:

> 2. Whether, in any event, the Interstate Commerce Commission, in authorizing the performance of motor-carrier service by railroads or their affiliates, is required by the provisions of the Interstate Commerce Act and the National Transportation Policy to limit the motor service to be rendered to that which is auxiliary to or supplemental of the rail service of the parent railroad?

It is the position of the League that the Commission is not required by law to limit the motor service to be rendered by a railroad affiliate to that which is auxiliary to or supplemental of the rail service; and that the Commission has the power to authorize motor service by a railroad

affiliate without such limitation when it finds that such authorization is required by the present and future public convenience and necessity.

The League has no interest in the operating rights or ownership of any particular carrier and simply presumes in this case that the record supports the finding of public convenience and necessity for an unrestricted certificate. In doing so we rely upon the decision of the court below as to the sufficiency of the evidence on this record to support the order. On that issue this Court holds that the findings of the Commission may not be reversed if there is substantial evidence to support them. *United States* v. *Pierce Auto Freight Lines*, 327 U.S. 515.

We do not argue here the question whether the proviso of section 5(2)(b) constitutes a policy which affects the Commission's power under 49 U.S.C. 307 or whether the Commission has the power to impose restrictions on motor operations of railroad affiliates, either in acquisition cases under section 5 or in certificate cases under section 307. We believe those questions have been settled in the affirmative by this Court. *Interstate Commerce Commission* v. *Parker*, 326 U.S. 60; *American Trucking Associations* v. *United States*, 326 U.S. 77; *United States* v. *Rock Island Motor Transit Co.*, 340 U.S. 419; *United States* v. *Texas & Pacific Motor Transport Co.*, 340 U.S. 450.

ARGUMENT.

I.

THE STATUTE DOES NOT REQUIRE THE RESTRICTION OF RAILROAD AFFILIATED MOTOR CARRIER CERTIFICATES.

The proviso of section 5(2)(b) expresses no requirement as to the type of certificate, or the inclusion of restrictions thereto. It does require that the Commission shall not approve the acquisition of a motor carrier by a railroad unless it makes certain findings pertinent to railroad ownership of motor transport. The proviso says:

> *Provided*, That if a carrier by railroad subject to this part, or any person which is controlled by such a carrier, or affiliated therewith within the meaning of paragraph (6), is an applicant in the case of any such proposed transaction involving a motor carrier, the Commission shall not enter such an order unless it finds that the transaction proposed will be consistent with the public interest and will enable such carrier to use service by motor vehicle to public advantage in its operations and will not unduly restrain competition.

These provisions clearly specify the requisite findings to support an order authorizing such an acquisition. They do not specify or necessarily affect the terms of the order to be entered upon such findings when properly made.

A fundamental difference is involved here. For it is one thing to find that an acquisition will enable a railroad to use motor service to public advantage in its operations, as the proviso specifies; it is a wholly different thing to require that the acquired service be limited to the supplementing of rail service. We submit, therefore, that restrictions as to the service to be performed are not inflexibly required by the statute, even in acquisition cases.

In certificate cases under section 307, the policy of the 5(2)(b) proviso properly influences the Commission's determination as to public convenience and necessity. But in such cases the absence of explicit requirement for service restrictions is coupled with the fact that the proviso was never made directly applicable thereto. Its influence is only by implication. The contention of appellants is not supportable by mere implication and finds no basis in the words of the statute or in the regulatory scheme.

In this connection it should be noted that the power of the Commission to attach conditions and limitations to certificates is granted by 49 U.S.C. 308, for expressed purposes. The section is significantly silent as to the imposition of limitations to carry out the policy of the proviso in Section 5(2)(b). Since, therefore, the imposition of limitations under section 308 is discretionary even as to the specific subjects which the Congress enumerated for treatment by limitation, then *a fortiori* it cannot be reasonably contended that the law prescribes the imposition of a limitation pursuant to the proviso of section 5(2)(b).

II.

THE COMMISSION HAS CORRECTLY INTERPRETED THE LAW

In its administration of the statute, the Commission has always inquired into the public need for service as the paramount consideration in determining whether or not to restrict a rail affiliated motor carrier to auxiliary or supplemental rail service. *Interstate Transit Lines, Ext.—Verdon, Nebraska*, 10 M.C.C. 665, 667; *St. Andrews Bay Trans. Co., Extension of Operations*, 3 M.C.C. 711, 716; *Texas & Pac. Motor Transport Co., Ext.—Point Blue, La.*, 47 M.C.C. 425; *Rock Island Motor Transit Co., Ext.—Wellman, Iowa*, 31 M.C.C. 643.

The paramount public need has likewise been given effect by the Commission in acquisition cases under section 5, in determining whether a limiting restriction must be attached to the order. *Rock Island Motor Transit Co.—Purchase—White Line Motor Freight, Inc.*, 40 M.C.C. 457; and *Pacific Motor Trucking Company—Purchase—Lowinel Trucking Co.*, 60 M.C.C. 373.

We submit that the foregoing cases, among others, invalidate the argument of appellants that the Commission has recognized that it is powerless to issue unrestricted motor carrier authority to railroads, or that there is no valid precedent for the Commission's action in this case.

When there is public need for additional motor carrier service which other motor carriers will not or cannot meet, the Commission should have, and we submit that it does have, the authority to certificate a rail affiliated motor carrier to perform such service without restricting it to operations that are auxiliary to or supplemental of the rail operation. The rigid limitation upon the Commission's power which the appellants would read into the proviso of section 5(2)(b) would deny that power contrary to the public interest.

III.

THE CONGRESS HAS IMPLICITLY APPROVED THE COMMISSION'S AUTHORIZATION OF UNRESTRICTED MOTOR SERVICE BY A RAILROAD AFFILIATE.

A search of the legislative history surrounding the enactment of the proviso in section 5(2)(b), and of subsequent amendments to the law, reveals no clear expression as to the congressional intent with respect either to the Commission's power or to its alleged duty to restrict rail affiliated motor carrier service. The mere fact that

the statute has been extensively amended and the declaration of policy overhauled without the imposition of any express requirements for such limitation is indicative of congressional approval of the Commission's administration of the Act under the cases cited above.

Further proof of the complete lack of any congressional intent to impose a rigid limitation on the Commission's power is found in the legislative history surrounding the 1938 amendments to the original Motor Carrier Act. At that time the Congress was confronted with a proposal to make section 307 subject to the requirement of special findings as set forth in the 5(2)(b) proviso. This was on its face something less than a requirement prescribing restricted certificates, yet it was strongly supported by the appellant American Trucking Associations and just as vigorously opposed by the Association of American Railroads. *Hearings Before The Senate Sub-Committee on Interstate Commerce on S.* 3696, 3rd Sess., pp. 128-129; 157-164. The report of the sub-committee, which was adopted by the full Senate Committee, shows that the proposal was dropped as too controversial (Sen. Rep. 1650, 75th Cong., 3rd Sess., p. 3):

> Senator Shipstead introduced an amendment to S. 3606 which proposed to amend section 207(a) of the Motor Carrier Act, 1935, by requiring the same showing upon the application of a carrier other than a motor carrier to obtain a certificate of public convenience and necessity as is required by such carrier to obtain approval of the purchase or other acquisition of a motor carrier. At the hearings upon S. 3606, Senator Shipstead withdrew his amendment for the reason that it appeared that the amendment would provoke controversy and might delay the adoption of S. 3606.

If the amendment of section 207 [49 U.S.C. 307] was too controversial, then *a fortiori* an express requirement upon the Commission to restrict rail-owned motor carrier certificates was wholly outside congressional intent.

CONCLUSION.

The League prays that the Court will interpret 49 U.S.C. 307 and the National Transportation Policy to hold that it is within the discretion and power of the Commission, upon all the evidence to issue an unrestricted certificate to a railroad affiliated motor carrier whenever it finds that the issuance of such a certificate is required by the present and future public convenience and necessity.

Respectfully submitted,

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BRIEF OF TRAFFIC BUREAUS OF OR CHAMBERS OF COMMERCE, SHIPPERS, AND EMPLOYEES OF ROCK ISLAND MOTOR TRANSIT COMPANY, INTERVENERS-APPELLEES

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I. FOREWORD

Appropriate and extensive Briefs are being filed by the Interstate Commerce Commission and the Rock Island Motor Transit Company, intervening

defendant, in which the questions presented and issues raised by Appellants and intervening Plaintiffs, in their Briefs, will be fully covered and answered. Thus, we will not burden the Court with a repetition of pointing out the untenable positions of appellants on the issues of (1) whether the Interstate Commerce Commission, in every instance, in authorizing the performance of motor carrier service by railroads or their affiliates, are required, by the Provisions of the Interstate Commerce Act and the National Transportation Policy, to limit the motor service to be given to that which is auxiliary to or supplemental of the rail operations of the railroads involved; and (2) whether the Interstate Commerce Commission, after authorizing the performance of restricted motor carrier service, by a railroad affiliate, over routes acquired by purchase, under Section 5 of the Interstate Commerce Act, 49 U. S. C. Section 5, has authority, under Section 207 of the Interstate Commerce Act, 49 U. S. C. Section 307, *upon proper application and after full public hearing,* to grant to such carrier the right to perform a partially restricted motor carrier service over the same routes?

Likewise, the foregoing Appellees will fully respond to Appellants' contention that the record fails to support the Interstate Commerce Commission's Report and Order authorizing the Rock Island Motor Transit Company to conduct the motor carrier operations granted it in Docket No. MC-29130 (Sub. No. 70), *The Rock Island Motor Transit Company Common Carrier Application.* (63 M.C.C. 91).

It is the intention of these intervening Appellees to supplement the briefs filed by Counsel for the Interstate Commerce Commission and Rock Island Motor

Transit Company relative to the great need of the service authorized as evidenced in the Record and to sustain the Interstate Commerce Commission's decision in this case in the public interest.

II. BASIS OF INTERVENTION

The following organizations and persons intervened in and participated throughout the entire proceedings in this cause before the Interstate Commerce Commission:

The Traffic Bureaus of and/or the Chambers of Commerce of:

Town	Approx. Population
Davenport, Iowa	80,000
Iowa City, Iowa	30,000
Cedar Rapids, Iowa	80,000
Newton, Iowa	12,000
Des Moines, Iowa	190,000
Atlantic, Iowa	7,000
Harlan, Iowa	5,000
Ottumwa, Iowa	40,000
Mason City, Iowa	30,000

Shippers' Committee

(1) Mr. Paul Monroe, President of Monroe Company, Colfa, Iowa, manufacturer of lodge and church furniture, and chairman of Shippers' Committee.

(2) Mr. A. C. Holmdahl, President of the Mid West Stamping Company, Kellogg, Iowa, manufacturer of stamping, hardware and machinery parts — now engaged in essential government work.

(3) Mr. P. H. Kuyper, President of Rol Screen Company, Pella, Iowa, manufacturer of window case-

ments and venetian blinds, engaged in government contract work.

(4) Mr. Sharp Lannon, General Manager, Grinnell Shoe Company, Grinnell, Iowa, manufacturer of shoes, with past government contract work and probable similar work in future.

(5) Mr. G. L. Engle, Traffic Manager, Wind-Power Mfg. Company, Newton, Iowa, manufacturer of farm machinery, engaged in government work.

(6) Mr. R. L. Cocklin, Vice-President, Laco-Oil Burner Company, Griswold, Iowa, manufacturer of oil burners and heaters.

(7) Mr. C. C. Vieth, general merchandise store, Oakland, Iowa,

because the firms represented by these organizations and persons had depended upon the service of the Rock Island Motor Transit Company and its predecessor, the White Line Motor Freight Company, for more than twenty (20) years, the vital importance of such service to them will be more fully developed in the brief following.

Employees' Committee

(1) John F. Morrison, *Chairman,* Company Commercial Agent, Des Moines, Iowa, nine (9) years' service with the Company; (2) Don Quinn, City Dispatcher, Des Moines, Iowa, nine (9) years' service; (3) Ross Johnson, former driver now over-the-road dispatcher, Des Moines, Iowa, ten (10) years' seniority with Company; (4) Mrs. Lillian McKenna, Assistant Payroll Clerk, Des Moines, Iowa, seven (7) years' association with Company; (5) P. J. Doyle,

former driver, dock worker and now claim adjuster, twelve (12) years' service with Company, because the more than eight hundred and fifty (850) employees of the Rock Island Motor Transit Company were dependent upon the continuation of the motor carrier operations of that company for their jobs and tenure and seniority rights which they had acquired in the employment with the Rock Island Motor Transit Company and its predecessor, The White Line Motor Freight Company, which facts will be further developed in the brief following.

III. BACKGROUND OF CASE

It is the purpose of these Interveners to point out to the Court the fact that there is a great deal more at stake in this case than any effect that its final determination will have, be it favorable or adverse, upon the applicant, the Rock Island Motor Transit Company, or the interveners and protestants in opposition to the company's application for a certificate to continue to perform motor carrier service in the territory involved.

The Record shows that a great number of witnesses, those who had actually used the Company's service for many years, testified without qualification, that a denial of a continuation of the Company's service would cause them irreparable loss in their respective businesses because no comparable transportation service was available to them.

It is difficult to properly present the interests and positions of these interveners without repeating or partially duplicating some of the factual data which may be presented in other briefs filed in this cause. However, to give the Court a full understanding of all

the facts which the Interstate Commerce Commission had before it, at the time of its decision herein, we deem it necessary to review some of the background and history of the case.

The application, although it covers the route between Chicago, Illinois, and Omaha, Nebraska, primarily provides service to a large segment of the State of Iowa. To appreciate the interest of the shipping interests represented by these intervening Appellees, the development of the motor carrier industry in the State of Iowa must be considered.

Prior to the Federal Motor Carrier Act of 1935, Part II of the Interstate Commerce Act, and from the time of the first enactment of a regulatory act in Iowa, governing Iowa intra-state transportation of freight, in 1923 the average motor carrier was engaged in transporting merchandise from jobbing and wholesale centers in the State such as Des Moines, Cedar Rapids, Sioux City, Davenport, Waterloo, etc., to the small towns in the trade areas of those shipping centers. *It was a one-way operation*—from the jobber or wholesaler to the small town merchant. The motor carrier of that day was generally an owner-operator and occasionally would have one or two additional trucks. These trucks had a very limited capacity and a truck which transported more than five tons was an exception rather than the rule.

With the advent of paved highways between the jobbing centers and across the State of Iowa in 1929 to 1931 intercity motor carrier operations developed so that by 1934 there was a complete network of motor carrier lines operating between all the principal towns and cities within the state, and serving all the

intermediate points, under authority granted them under the Iowa Motor Carrier Act, for intra-state authority, and performing interstate operations over such routes and to all intermediate points without regulation or grant of authority until the Federal Motor Carrier Act of 1935 was passed. (For this network of lines which were so established see Exhibit 25, R. 1919.)

Likewise, in the period between approximately 1930 to 1935, extensive intercity motor carrier operations were established, by new motor carriers in the field, between Chicago, Illinois, and Des Moines, Iowa; Des Moines, Iowa, and Omaha, Nebraska; Des Moines, Iowa, and the twin cities of Minneapolis and St. Paul, Minnesota; etc. These operations were confined primarily to overhead operations between the terminal points and as time went on these operations were extended to other interstate points. During all this time, however, the local service, to the smaller communities, commonly referred to in the industry as "peddler service," was being conducted by the original carriers.

The White Line Motor Freight Company, the predecessor of Rock Island Motor Transit Company, the present applicant, was one of the original motor carriers in the State of Iowa (R. 228), performing first a local peddler service from Des Moines to Iowa towns along U. S. Highway No. 6, both east and west from Des Moines. Later this Company, but long prior to Federal regulation in 1935, extended its operations to the interstate points of Omaha, Nebraska, and Chicago, Illinois, continuing to give local "peddler" service to all the small and intermediate towns between Omaha and Chicago.

With the development of motor carrier service along the main highways in Iowa, both in intra- and interstate commerce, which highways in virtually every instance paralleled a main rail line across the state, the local way freight service of the railroads gradually diminished because of the diversion of traffic to the motor carrier lines who were giving a more flexible and efficient service. The merchants and businesses in the small communities along these lines and routes thus turned to and developed their businesses and enterprises on the motor carrier service so established.

The White Line Motor Freight Company and its successor, Rock Island Motor Transit Company continued throughout the years to serve all the merchants along U. S. Highway No. 6 between Omaha and Chicago and various off-route points, all of which were rail points of the Chicago, Rock Island and Pacific Railroad, both in intra- and interstate commerce; whereas, the motor carriers or predecessors who came into the transportation field shortly prior to Federal Regulation in 1935, such as Des Moines Transportation Company; Iowa-Nebraska Transportation Company; Bruce Motor Freight Company; etc.; continued to perform only an overhead service between the main terminal points and to such intermediate points where there was volume traffic and then in only interstate commerce because the original carriers, such as White Line Motor Freight Company, had been granted exclusive intra rights along the routes served by them (R. 21).

The purpose of the foregoing recital of the development of the motor carrier industry in Iowa and particularly as it developed in the territory involved in this proceeding is to point out to the Court the basis

and reason of the dependence of these interveners and the shipping interests represented by them in the continuation of the service so long provided by the Applicant and its predecessor.

ARGUMENT

POINT I

The Federal Motor Carrier Act, Part II of the Interstate Commerce Act, 49 U. S. C. 207, Requires That the Findings and Order of the Defendant, the Interstate Commerce Commission, be Sustained.

Section 207, Title 49 U. S. C., provides:

> "(a) Subject to Section 310, a *certificate shall be issued* to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the Application, if it is found that the Applicant is fit, willing and able properly to perform the service proposed and to conform to the provisions of this part and the requirements, rules, regulations of the Commission thereunder, and that the proposed service, to the extent to be authorized by the certificate, *is or will be required by the present or future public convenience and necessity* * * *."

The applicant in this case was found fit, willing and able properly to perform the service proposed and to conform to the requirements, rules and regulations of the Commission (R. 10). Its many years of successful operations demonstrate that it possesses these qualities. The sole issue remaining, therefore, is the service proposed required by the present or future public convenience and necessity? This query must be definitely answered in the affirmative. Past lawful operations in a territory is not only the best, but virtually conclusive evidence of the need of the service. (See

C. & D. Motor Delivery Company—Elliott, 38 M.C.C. 547; *Miller-Newman,* 57 M.C.C. 395.) The Applicant has been serving and proposes to continue to serve many points and places not otherwise served by motor carriers and in many instances without rail service. No other motor carrier or other transportation facility is presently giving or can perform the service which has been performed by the Applicant and which the Applicant proposes to continue to perform. (R. 74)

A denial of the instant application by the Commission would have been arbitrary in view of the record establishing the great need for the continuation of Applicant's service and subject to "judicial review and reversal." See: 9 American Jurisprudence, 489, Section 87; *Baltimore & Ohio Railroad Company* v. *United States,* 5 Fed. Supp. 929 and affirmed 293 U. S. 454; 55 S. Ct. 268; *Oregon R. & N. Co.* v. *Fairchild,* 224 U. S. 510, 32 S. Ct. 535, and *Thomson* v. *Iowa State Commerce Commission,* 235 Iowa 469; 15 W. W. 2d 603.

In *Baltimore & Ohio Railroad Company* v. *United States, supra,* it is said:

> "Epitomizing what has already been said—the commission was bound to give legal effect to facts established in evidence; Oregon R. & N. Co. v. Fairchild, 224 U. S. 510, 525, 32 S. Ct. 535, 56 L. Ed. 863; its order should be set aside if disregard by it is shown of substantial and uncontradicted evidence having a bearing upon the issue, S. W. Bell Tel. Co. v. Public Service Commission, 262 U. S. 276, 287, 43 S. Ct. 544, 67 L. Ed. 981, 31 A. L. R. 807; and to refuse to consider pertinent and substantial evidence is considered arbitrary action, sufficient to set aside its order, Chicago Junction Case, supra."

A decision, in this case, denying the Application, in view of the overwhelming evidence of the need of the service, would have been directly contrary to the definitely expressed intention of the Congress as set forth in the above quoted part of the Federal Motor Carrier Act.

POINT II

The Public Interest Was and is the Sole and Paramount Issue in This Case.

The intervention of the Iowa State Commerce Commission in support of the instant application; the intervention and support of the traffic bureaus and Chambers of Commerce of the principal jobbing and shipping centers in the State of Iowa; the intervention and support of the traffic bureaus of the great shipping centers of Chicago, Twin Cities, St. Joseph, Missouri, and Omaha, Nebraska, together with the intervention and support of the application by representatives of independent motor carriers serving the midwest territory, some of whom are competitive with the applicant in the territory involved, very forcibly demonstrate that there is a great public demand and need for the service proposed by the Applicant.

Certainly, if there was not such a need for applicant's service, the following typical representatives of traffic bureaus and Chambers of Commerce would not have made such pertinent statements in their testimony as:

George M. Cummins, Traffic Commissioner of Davenport, Iowa, Chamber of Commerce, testified:

> "It (Applicant) has been a satisfactory service, and we want it to continue as a daily service. Anything that will hurt, that is going to jeopardise

our interests. (R. 231). * * * I would say * * * that I know of no other one (motor carrier serving Davenport) that so completely gives that satisfactory service." (R. 232)

Arthur J. Maurer, Assistant Traffic Director of the Chicago Association of Commerce and Industry, testified:

"* * * it is the feeling of our shippers (2100) that the Rock Island Motor Transit is performing a necessary service and that they should be permitted to perform a *full common carrier operation.* That means to handle not only the smaller towns but the larger towns on their route and to handle truckloads as well as less-than-truck load traffic. In other words, to have an operation which is economically sound." (R. 245)

Robert T. Gage, Secretary-Manager of Iowa City, Iowa, Chamber of Commerce, stated:

"* * * there is no doubt but what one of the outstanding attractions that we have in Iowa City is our trucking facilities and, of course, the very nub of that is the Rock Island Motor Transit's interstate service." (R. 485)

Henry Archambo, Assistant Traffic Director for the Minneapolis, Minnesota, Traffic Association, whose members have a regular flow of traffic, by motor truck, into the Iowa territory served by Applicant company, testified:

"* * * We have got some very good truck service which we want to keep out of the Minneapolis market, principally Watson, H & W, Des Moines Transportation; but when you come to peddle service, my experience has been this in investigations which I have made * * * the Rock

Island Motor Transit Company has been complying with its common carrier authority, where the other fellows who should give us this kind of service are picking and choosing the freight, and that is very detrimental to our industry." (R. 1086)

Carl A. Hansen, Traffic Manager of Des Moines, Iowa, Chamber of Commerce, said:

"I know numerous carriers have interstate rights to serve those points, (small communities located intermediate between the larger centers) but I know of none who are serving on the smaller shipments except the Rock Island Motor Transit. (R. 1318) * * * peddler service, which is being rendered by the Rock Island Motor Transit Company, for the handling of both intra- and interstate shipments, is a matter of concern to the shippers and receivers of freight who are members of our bureau here in Des Moines." (R. 1319)

nor would it be expected that such representative independent motor carrier operators would have made the following statements in support of the continuation of Applicant's service:

V. J. Grice, General Manager of H & W Motor Express Company of Dubuque, Iowa, which company is in direct competition with the applicant company in part of the Iowa territory,

"We have a large amount of interchange with Rock Island Motor Transit, both in freight that we originate and freight that they originate. We have common points of interchange at Des Moines, Cedar Rapids and the Tri-cities, (Davenport, Iowa, Rock Island and Moline, Illinois) and in some respects we are competitive to the Rock Island Motor Transit. There are points served by Rock Island Motor Transit that our company has

authority to serve for which we interline traffic with Rock Island Motor Transit for delivery because there is insufficient volume for us to conduct the operation at a profit." (R. 295)

M. J. Riley, Vice-President and Traffic Manager of Dohrn Transfer Company of Rock Island, Illinois:

"* * * We have interlined considerable traffic with the Rock Island Motor Transit Company at the Tri-cities (see above) (R. 343). Excepting one or two smaller points * * * I know of no other carrier that performs a local peddler who will render a consistent service to the points in Iowa served by the Rock Island Motor Transit Company than that company." (R. 345)

Other motor carriers who have interlined with the Applicant company for years gave similar evidence of their dependence on Rock Island Motor Transit for local service to all the points and places served by it.

The Record in this case demonstrates beyond question that the quality and character of the service rendered by the Applicant Company throughout the years up to the time that it was ordered to curtail its operations was of such a nature that business and industry, both within and without the State of Iowa, became dependent upon it to the extent that a cessation of such operations would result in a direct impairment of the conduct of business and service rendered by such businesses and industry.

The testimony of *Honorable Carl Reed, Chairman of the Iowa State Commerce Commission,* and a man who has had many years experience with and knows the transportation problems of the State of Iowa, clearly establishes that the service proposed by the

applicant was in the public interest and welfare. The following testimony of Chairman Reed demonstrates this public interest:

> "The experience of our commission, based upon the information that came to us from the shippers and also the carriers themselves, has been *that the carriers were not interested in local service.* (R. 741). The trend in this state in the matters that we have contact with has been that the carriers generally are getting away from the local service and the smaller shipments. (R. 742). The position of the commission has been that it does not take any position for or against any particular carrier. In this particular instance, our interest has been to see that service was performed to the various communities. * * * I don't know offhand just what authority every carrier has, *but I do not recall of any carrier that has been performing this service that the Rock Island Motor Transit Company has been performing.*" (R. 743)

Who is better qualified to know and who is more familiar with the transportation needs and requirements of the people of Iowa than the legally constituted body established by the State of Iowa, the Iowa State Commerce Commission, speaking through its Chairman? The Iowa State Commerce Commission as shown by Chairman Reed's testimony is not interested in or concerned with what particular carrier performs a service as long as the service is performed. That body has the statutory duty to see that public transportation agencies provide an efficient and regular intra-state service to the extent of their capabilities, be that service rail or motor.

POINT III

Any Restriction Imposed Upon the Applicant Company Requiring it to Operate Strictly on an Auxiliary and Supplemental Basis to the Rail Operations of the Chicago, Rock Island and Pacific Railroad to the Extent That Traffic Handled by It Had to be on Rail Billing and Have Either a Prior or Subsequent Movement by Rail Would be Contrary to the Record and Detrimental to the Public Interest.

It is apparently appellants' position that any authority granted to Applicant must, under Section 5 (2) (b) of the Interstate Commerce Act as they attempt to read it into Section 207 of the Motor Carrier Act, be strictly confined to the handling of rail freight by the transit company, i.e., on rail billing and which had either a prior or subsequent rail movement. Of course we cannot agree with appellants' interpretation of Section 5 applying to cases arising under Section 207 of the Motor Carrier Act (convenience and necessity or certificate cases). As stated, this contention will be thoroughly answered by Briefs filed by Defendant-Appellees.

We do, however, point out that if such restrictions were imposed that Applicant's operations would be so curtailed that its service would not and could not fulfill the public requirements. Before further discussing the drastic effect that such restrictions would have upon the service involved, it is well to keep in mind that the operations authorized by the Commission in this case were restricted to require: (1) that applicant serve only points on the rail lines of the Rock Island Railroad as specifically designated in the Report of the Commission; (2) that there may be attached from time to time to the privileges such reasonable terms, conditions, and limitations as the public convenience and necessity may require, and

(3) all contractual arrangements between the applicant company and the Chicago, Rock Island & Pacific Railroad Company shall be reported to the Commission and shall be subject to revision. (R. 116-117)

The finding by the Commission that a restriction requiring that applicant handle only rail-billed would be unworkable is fully supported in the record as established by the Commission's finding:

> "Theoretically this should be true, but in actual practice the motor-billed freight is handled with greater dispatch; and this is the reason that many of the public witnesses supporting applicant have refused to deliver their shipments to Rock Island for billing even though the line-haul transportation thereof is performed entirely by Motor Transit. The reluctance of shippers to use this kind of service is clearly due to the fact that it requires longer time in transit. For example, a shipment moving on rail billing from the Twin Cities to Marengo is picked up by the cartage company employed for that purpose by Rock Island and delivered to the Minneapolis or St. Paul rail terminal, worked, billed, and, in 1 or 2 days, turned over to Motor Transit for movement to destination. This shipment would require from 2 to 4 days more in transit than would be necessary if it moved by Motor Transit on motor billing. The situation in the reverse direction would be substantially similar. Motor-billed shipments from Chicago are picked up by Motor Transit and moved out in road-haul equipment the same night, as contrasted with rail-billed shipments which are picked up by a cartage company for Rock Island and moved to Burr Oak, 15 miles, worked, billed, and returned to Chicago for transfer to Motor Transit for transportation to destination, or if it is necessary to move these shipments west from Burr Oak in boxcars owing

to the key-point restriction they would not reach Davenport for 2 or 3 days and sometimes longer. Similar delays occur on shipments in boxcars to Des Moines. The delays in handling rail-billed shipments from Chicago are greater than from the Twin Cities. Rail-billed freight is delayed at points in Iowa on account of the (fol. 78-B) method of handling these shipments before they are transferred to Motor Transits for movement." (R. 113-114)

Likewise, such restrictions would prohibit the necessary interlining of traffic between other motor carriers and applicant, as found by the Examiner, and set forth in his report:

"Opposing motor carriers with appropriate authority have not provided such a service, except with respect to selected small segments of the routes, principally immediately east (fol. 48) of Des Moines. These ca[illegible]rior to August 30, 1951, delivered less-than-truckload freight to Motor Transit for movement to destinations they are authorized to serve. Some of this freight consisted of low-rated articles which such carriers deemed unprofitable to handle. These carriers in many instances refused to accept less-than-truckload shipments from their motor carrier connections for movement to a destination embraced in their operating authority. *As a result thereof, several of these connecting carriers have had to rely upon Motor Transit to accept and make delivery of such shipments,* even in cases where the delivering carrier was designated by the shipper. These experiences have convinced some of the connecting carriers that the unrestricted services of Motor Transit should continue to be available to them so that they may have a carrier that is always willing and able to accept interchange shipments destined to points on the White

> Lines and Frederickson Line Routes. One motor carrier that possesses rights on U. S. Highway 6 between Davenport and Des Moines, elects to give all its less-than-truckload freight to Motor Transit for delivery at such points, because it is not profitable for it to provide this service." (R. 74)

Thus, could anything be more convincing than that the "public convenience and necessity" required, as found by the Commission, that applicant be granted the modified restrictions in its authority which it was granted. To have imposed the restrictions as urged by the opposing carriers would have virtually dried up a substantial part of the flow of traffic into the communities served by applicant company because a large percentage of the traffic handled by it originated on and was interlined from other motor carriers. (See Exhibit 16, R. 1869).

POINT IV

The Setting Aside of the Commission's Order Granting the Application Involved Would Result in Great Hardship and Loss to the Present Employees of the Applicant Company and Contrary to the Public Interest.

It is most difficult to discuss hardly any phase of this case without reverting to the operations of the White Line Motor Freight Company, Applicant's predecessor. Applicant, in taking over White Line's operations in 1938, likewise took over all its personnel. Applicant continued a motor truck service, which as previously pointed out, was the original one in the territory involved in these proceedings. The public, as demonstrated by the Record, became dependent upon that service.

Likewise, the employees of the Rock Island Motor Transit, many of whom came over from the White

Line at the time of the acquisition, have acquired and established in the company very substantial positions and valuable seniority rights.

If the Decision and Order of the Commission should be reversed and Applicant denied the right to continue the operations so long conducted by it and its predecessor, White Line, the rights of a very substantial part of the Applicant's employees would not only be jeopardized, but their positions terminated. The record clearly establishes this fact in the testimony of W. F. Peterson, general manager of the Applicant Company, when he testified:

> Q. "Now, Mr. Peterson, there has been testimony in the record that at certain shipping points such as Iowa City, Grinnell, Newton and Atlantic, leaving out the larger points such as Des Moines and Davenport, that it was essential to the shipping interests there, because of the smaller nature of the businesses located in those points, that facilities be available for rate information, routing shipments, for loss and damage claims and tracing shipments. Now, in the event that your company was not authorized to restore and regain the opportunity to conduct the services they were giving prior to any restrictions, would those facilities, including the personnel available in those cities and towns, remain?
>
> A. It was my thought at the time that these restrictions were imposed, and at the time of the temporary hearing, that we might be able to maintain certain facilities at some of these points. I am convinced today that the bulk of these smaller points, so far as the motor subsidiary is concerned, will be closed up.
>
> (fol. 1888) Q. By that do I understand that in those points I have named, including, well, Muscatine and Washington, where there was

testimony that the terminal facilities that your company has included rate information, routing information, for tracing shipments, and loss and damage claims, that they were a valuable service, and the only service of that kind available in those communities by any common motor carriers, that your company would terminate those facilities and that service to those communities?

A. It is my best judgment that would happen.

Q. And, as I understand, you would no longer maintain the facilities and keep the personnel there?

A. That is correct.

Q. And your personnel would then be reduced to that extent in those particular communities?

A. Yes, that is right.

Q. Now, I understand that here in Des Moines, the home office of the Rock Island Motor Transit Company, that you have a complete office force independent of the railroad, which is available and which does aid in serving the community served by the Rock Island Motor Transit Company. Now, in the event that your company did not have its original operating rights restored, what would be the effect upon the facilities and personnel which you have here in Des Moines, which has been used by the Rock Island Motor Transit Company in serving the public in the territory involved in this case?

(fol. 1889) A. Well, of course, Des Moines would be the hardest hit of any of them. It is our general office here, and if we are forced to go into an operation such as we would have to go in under the White Line order, all I would maintain here would be cost accounting and payroll. That means that beyond that it would probably be reduced to, probably just wiped out except cost accounting and payroll.

Q. How many employees did your company have at the time of the effective date of the order

in the White Line case last July 31, which were being used to serve the public in the territory covered by your company?

A. Well, it run on the regular payroll about seven hundred fifty, and your extras aren't on there. Our peak was eight hundred eighty-three last year.

Q. How many employees does your company now have?

A. It would run between seven and eight hundred.

Q. How many employees would your company have if you were required to go to a strictly rail billing service in connection with the White Line Motor Truck Line?

A. Well, it would be far less than I anticipated at the time this order was made effective. At that time I figured two hundred twenty-two would be laid off, but they would be far more than that because I can see the results of what happened under this restrictive order, and if that is carried out, why if will be reduced far below the two hundred (fol. 1890) twenty-two that I have figured would be laid off.

Q. Well, now, do I understand that, for instance, in Newton you have a terminal agent there, you have pick-up and delivery drivers, and in these other places where you have terminals, that you have the terminal agent, pick-up and delivery drivers, and personnel of that kind, would your company if required to go to a strictly rail billing, would the personnel in those communities be eliminated or materially reduced in number?

A. They would be materially reduced, and they might be entirely eliminated because if there wouldn't be sufficient traffic to warrant the pick-up and delivery, we would put the pick-up and delivery up for bid, and some local contractor could do it cheaper than we could do it under the restricted operation.

Q. Now, you testified it required the intrastate, interstate and rail billed freight to even substantially sustain your peddler local operations, isn't that correct?

A. You have to have all of it to even begin to sustain a peddler operation."

(R. 1410-1411 & 1412)

Under the provisions of Section 5 (2e) of Part I of the Interstate Commerce Act it was the duty of the Commission, at the time of considering the acquiring of the White Line Motor Freight Company's operating rights by the Applicant Company, to have fully considered the effect of such acquisition upon the employees of the then existing carrier. If the Commission found that by reason of the transfer of such rights to the Applicant Company, that it would be necessary to restrict the Applicant Company's operations in such a way that a substantial number of the existing carrier's employees would be adversely affected, then it would have been the duty of the Commission to deny the transfer of such rights unless it was in the general public interest to otherwise approve such transfer.

It is the position of these interveners, employees, that at the time of the transfer of the White Line Motor Freight Company's rights to the Applicant Company that their rights as such employees of the original company were not considered, if there were later to be limitations and restrictions placed upon the operations of the Rock Island Motor Transit Company, which would eliminate and do away with their jobs.

We are not attempting to reargue the acquisition case of the White Line Motor Freight Company by the

Applicant Company, but we are merely attempting to point out the drastic impact and effect that a reversal of the Order granting the instant application would have not only upon the public but upon the several hundred employees of the Rock Island Motor Transit Company. We believe that the jobs and rights of several hundred employees of the Rock Island Motor Transit Company coupled with the great public demand for the continuation of the services rendered by the Rock Island Motor Transit Company, as successor to the White Line Motor Freight Company, manifest such a public interest that the public convenience and necessity required the granting of this Application in the form in which it was granted.

These intervening employees-Appellees are at a loss to understand the rather hostile and most adverse position taken, by Railway Labor Executives' Association, to their interest and welfare, most of all of whom are members of the Labor Union represented by such Association, by said Association intervening in support of the Appellants in this case. These employees have been paying dues over the years to the Union for help and protection when they needed it, yet in this time of crisis, when their jobs are at stake, they find their Union officials working against them.

POINT V

Congress Never Intended That Part II of the Interstate Commerce Act, the Regulation of Motor Carriers, should be Applied to the Public Detriment and the Denial of Motor Carrier Service Where Required in the Public Interest Simply Because the Carrier Giving That Service Happened to be Affiliated With a Railroad.

The most amazing, if not shocking, part of Appellant's Brief is found on page 75. Therein Appellants make this most alarming statement:

"The time has come, we believe for this Court to forcefully remind the Commission of this mandate and to take steps to insure that it is faithfully obeyed, in this case and others of similar nature which may follow. The most appropriate method by which this Court can achieve this objective is to require the Commission in this case, and others which involve rail use of motor vehicles, to impose, as a minimum, a restriction limiting such use to the transportation of shipments having a prior or subsequent rail haul."

Certainly nowhere in the Commerce Act is there any language manifesting any intent on the part of the Congress to prohibit railroad owned or affiliated motor carriers to confine their operations solely to such service as proposed by Appellants. Such determination by the Court would be tantamount to judicial legislating into the Commerce Act, something that Congress never intended. The statement of Senator Wheeler in the debate, on the proposed Motor Carrier Act, made it clear that it was the policy of Congress that interstate motor transportation *should be regulated in the interest of the public* and not in the interest of the railroads or any other form of transportation. See Cong. Rec. 5657, April, 1935.

To impose the restrictions as suggested by Appellants would certainly not be in the public interest because, as the record shows, public transportation service to many communities, presently served by the Applicant Company, would be denied—there being no other carriers serving them.

The Record shows and Briefs filed by other Appellees will clearly demonstrate, that instead of

Applicant having secured a monopoly in the field served by it, during the years in which it operated without restrictions, that it has not even retained the position, in respect to volume of traffic, that its predecessor, The White Motor Freight Company, had developed.

The restrictions proposed by Appellants, as set forth above, would destroy the transportation service upon which the firms, represented by these intervening Traffic Associations and Chambers of Commerce, and these shipper-interveners, have depended upon for so many years. Such destruction of transportation service to this large section of the state of Iowa, and in reality, in the midwest by reason of the traffic moving from Chicago, Minneapolis, St. Paul, Omaha and Kansas City, both direct and on interchange, into the Iowa territory, would be most contrary to the public interest. Congress intended to stabilize interstate motor carrier transportation and not destroy it by the enactment of the Federal Motor Carrier Act of 1935. Appellants are asking for something which Congress never intended and could not intend under circumstances as shown in the record in this case.

CONCLUSION

The authority granted Applicant, with the restrictions that were imposed, by the Interstate Commerce Commission, 63 M.C.C. 91, was not only supported by the Record, but required in the public interest and under the provisions of Sec. 207 of Part II of the Interstate Commerce Act. The decision of the Court below, 144 F. Supp. 365, sustaining the Commission's grant of authority to Applicant was proper and con-

sistent with the Record and applicable laws—and should be *affirmed.*

Respectfully submitted,

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IN THE

Supreme Court of the United States

October Term 1955

RAILWAY LABOR EXECUTIVES' ASSOCIATION, ET AL.,
Appellants,

v.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, ET AL.,
Appellees.

On Appeal From the United States District Court for the District of Columbia

JURISDICTIONAL STATEMENT

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IN THE

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RAILWAY LABOR EXECUTIVES' ASSOCIATION, ET AL.,
Appellants,

v.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, ET AL.,
Appellees.

On Appeal From the United States District Court for the District of Columbia

JURISDICTIONAL STATEMENT

Appellants, the Railway Labor Executives' Association, et al., appeal from the judgment of the United States District Court for the District of Columbia, entered on January 27, 1956, affirming orders of the Interstate Commerce Commission, and submit this Statement to show that the Supreme Court of the United States has jurisdiction of the appeal and that substantial questions are presented.

OPINIONS BELOW

The opinion of the District Court for the District of Columbia has not been reported. The opinion of the District Court is attached hereto as Appendix B, and the judgment of said Court is attached as Appendix C. The opinion of the Interstate Commerce Commission is reported at 63 M.C.C. 91. The orders of the Commission are unreported. The Commission's opinion and orders are attached as Appendix D.

JURISDICTION

This suit was brought under Section 10 of the Administrative Procedure Act (5 U.S.C. 1009) and Sections 1336, 1398, 2284 and 2321-2325 of the Judicial Code (28 U.S.C. 1336, 1398, 2284, 2321-2325), and Section 205(g) of the Interstate Commerce Act (49 U.S.C. 305(g) to enjoin, annul, and set aside orders of the Interstate Commerce Commission dated November 22, 1954, July 6, 1955, and September 9, 1955, entered in Commission Docket No. MC-29130 (Sub-No. 70). The judgment of the District Court was entered on January 27, 1956, and notice of appeal was filed in that court on March 26, 1956. The jurisdiction of the Supreme Court to review this decision by direct appeal is conferred by Sections 1253 and 2101(b) of the Judicial Code (28 U.S.C. 1253 and 2101(b)). The following decisions sustain the jurisdiction of the Supreme Court to review the judgment on direct appeal in this case: *United States* v. *Capital Transit Company*, 325 U.S. 357 (1945); *United States* v. *Detroit and Cleveland Navigation Company*, 326 U.S. 236 (1945); *United States* v. *Pierce Auto Freight Lines*, 327 U.S. 515 (1946).

QUESTIONS PRESENTED

1. Where the Interstate Commerce Commission has approved the acquisition of independent motor carriers and their operating rights by a wholly-owned subsidiary of a railroad subject to restrictions on the operating rights thus acquired limiting the operations of the railroad subsidiary thereunder to services which are auxiliary to or supplemental of the railroad's train service in accordance with the requirements of the former Section 213 and present Section 5(2)(b) of the Interstate Commerce Act, does the Interstate Commerce Commission have authority thereafter to remove those restrictions without regard to the requirements of such sections of the statute and authorize the railroad subsidiary to operate an unrestricted motor carrier service over the same routes through the guise of a certificate proceeding under Section 207(a) of that Act.?

2. Whether, in any event, the Interstate Commerce Commission, in authorizing the performance of motor carrier service by a railroad subsidiary, pursuant to either Section 5(2)(b) of the Interstate Commerce Act or Section 207(a) of such Act, is required by the provisions of the Interstate Commerce Act and the National Transportation Policy to limit such motor service to that which is auxiliary to or supplemental of the rail service of the parent railroad?

STATUTES INVOLVED

This appeal involves the National Transportation Policy (49 U.S.C., preceding Section 1), Sections 5(2)(a) and (b), 206, 207(a), 208(a), and former Section 213(a)(1) of the Interstate Commerce Act, as amended (49 U.S.C. 5(2)(a) and (b) and 306,

307(a)(1), 308(a), and 313(a)(1)). These statutory provisions are set forth in Appendix A hereto.

STATEMENT

The orders of the Interstate Commerce Commission, which are the subject of this litigation, granted to the Rock Island Motor Transit Company (hereafter called "Motor Transit"), a wholly-owned subsidiary of the Chicago, Rock Island, and Pacific Railroad (hereafter called "Rock Island Railroad"), an authorization to transport general commodities, with certain exceptions, between various points in Illinois, Iowa, and Nebraska.[1] The grant contained no restrictions limiting the trucking operations of Motor Transit to those which were auxiliary to or supplemental of the parent railroad's train services.[2]

The interest of the appellants in this Commission action stemmed out of their representation of employees of the nation's railroads. The appellant Rail-

[1] The routes granted were between Silvis, Ill., and Omaha, Nebr., over Illinois Highway 92 and U. S. Highway 6, via various intermediate points; between Iowa City, Iowa, and Cedar Rapids, Iowa, over U. S. Highway 218; between Harlan, Iowa, and Omaha, Nebr., over Iowa Highway 64 and U. S. Highway 6, via various intermediate points; and between Avoca, Iowa, and Atlantic, Iowa, over U. S. Highways 59 and 6 and Iowa Highway 83.

[2] The Commission's orders made the grant subject to the following general conditions: (1) that there may be attached from time to time to the privileges granted such reasonable terms, conditions, and limitations as the public convenience and necessity may require, and (2) that all contractual arrangements between The Rock Island Motor Transit Company and the Chicago, Rock Island and Pacific Railroad Company shall be reported to us and shall be subject to revision, if and as we find it to be necessary in order that such arrangements shall be fair and equitable to the parties.

way Labor Executives' Association is composed of twenty affiliate standard national and international railway labor organizations which are the duly certified representatives under the Railway Labor Act (45 U.S.C. 151, et seq.) of various categories of employees of the country's principal railroads, including the Rock Island Railroad. These organizations are:

American Train Dispatchers' Association
Brotherhood of Locomotive Firemen and Enginemen
Brotherhood of Maintenance of Way Employes
Brotherhood Railway Carmen of America
Brotherhood of Railroad Signalmen of America
Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes
Brotherhood of Railroad Trainmen
Brotherhood of Sleeping Car Porters
Hotel & Restaurant Employees and Bartenders International Union
International Association of Machinists
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers
International Brotherhood of Electrical Workers
International Brotherhood of Firemen & Oilers
International Organization Masters, Mates & Pilots of America
National Marine Engineers' Beneficial Association
Order of Railway Conductors and Brakemen
The Order of Railroad Telegraphers
Railroad Yardmasters of America
Sheet Metal Workers' International Association
Switchmen's Union of North America

The organizations affiliated with the appellant Association have agreements with the Rock Island Railroad concerning rates of pay, rules and working conditions

of such employees which confer valuable property rights upon the employees. In their representation of rail employees, these organizations have participated in numerous Commission proceedings for the purpose of urging full implementation of the National Transportation Policy, declared by Congress to preserve the independent status and the inherent advantages of each mode of transportation (49 U.S.C., preceding Section 1). They have not opposed the acquisition of trucking operations by railroads or the expansion of railroad-owned trucking carriers. However, they have endeavored to keep such railroad controlled trucking operations auxiliary to or supplemental of the rail service of the parent railroads consistent with the requirements of the Interstate Commerce Act. Their interest in opposing unrestricted motor trucking operations by railroads or railroad subsidiaries is to preserve the job security of rail employees. Such security lies in the railroads waging a strong competitive fight to retain rail service. The abandonment of rail service by railroads in favor of trucking operations constitutes a threat to this job security. The appellants therefore intervened in the proceeding before the Commission and argued that the Interstate Commerce Act required the agency to restrict Motor Transit's operations involved in the application to those which were auxiliary to or supplemental of its parent railroads train services.

The routes which were certificated to Motor Transit on an unrestricted basis in the Commission orders here involved were already certificated to that carrier subject to restrictions designed to ensure that operations thereunder be auxiliary to or supplemental of the Rock Island Railroad's train service. Such prior

certificate was issued after lengthy proceedings before the Commission on applications by Motor Transit for agency approval of its purchase of the routes from existing independent operators as follows:

(1) The route between Omaha, Nebraska, and Silvis, Illinois, over U. S. Highway No. 6 and Illinois Highway No. 92 was purchased by Motor Transit from the White Line Motor Freight Company in 1937.[3] In *Rock Island M. Transit Co.—Purchase—White Line M. Frt.*, 5 M.C.C. 451 (1938), the Commission approved the purchase pursuant to Section 213(A)(1) of the Interstate Commerce Act, which required the agency to find, *inter alia*, that the transaction would promote the public interest by enabling the Rock Island Railroad to use the acquired motor service of its subsidiary to public advantage in the railroad's own operations. The Commission made the necessary statutory finding upon the basis of the representations of Motor Transit of its intention to operate a coordinated rail-motor service and thereby to improve the parent railroad's service to the public (p. 455). The Commission found that Motor Transit's proposal was similar to that approved in *Pennsylvania Truck Lines, Inc.—Control—Barker M. Frt.*, 1 M.C.C. 101 (1936), 5 M.C.C. 9, 49 (1937), and referred to the fact that it had there outlined the scope of approved and disapproved motor carrier operations by a railroad or its subsidiary (p. 454). In such earlier case the Commission had stated (5 M.C.C. 11, 12) that "approved operations are those which are

[3] The vendor at the time of the acquisition was in process of perfecting the operating rights it sold to Motor Transit under Section 206(a) of the Interstate Commerce Act (49 U.S.C. 306(a)).

auxiliary or supplemental to train service." In addition, the Commission required Motor Transit to abandon parts of the White Line purchase not along the line of the Rock Island Railroad and imposed as specific conditions on its approval (a) that Motor Transit should not render service from or to, or interchange traffic at, any point other than a station on the line of the parent railroad, and (b) that the operating authority acquired was subject to such further limitations, restrictions, or modifications as the Commission might find necessary to impose or make in order to ensure that the motor trucking operation be auxiliary to or supplemental of the parent railroad's train service and not unduly restrain competition.

Subsequently, the Commission on its own motion reopened the proceeding and in *Rock Island M. Transit Co.—Purchase—White Line M. Frt.*, 40 M.C.C. 457 (1946) imposed additional restrictions on the operating rights acquired by Motor Transit from the White Line to ensure that Motor Transit's operations thereunder be auxiliary to or supplemental of the parent railroad's train service.[1] In *Rock Island M. Transit Co.—Purchase—White Line M. Frt.*, 55 M.C.C. 567

[1] The conditions thus imposed were:

1. The service to be performed by the Rock Island Transit Company shall be limited to service which is auxiliary to, or supplemental of, train service of The Chicago, Rock Island and Pacific Railway Company.

2. The Rock Island Motor Transit Company shall not render any service to, or from or interchange traffic at any point not a station on the rail line of The Chicago, Rock Island and Pacific Railway Company.

3. No shipments shall be transported by The Rock Island Motor Transit Company between any of the following points, or through, or to, or from, more than one of said points: Omaha, Nebraska, Des Moines, Iowa, and collectively Davenport and

(1949), the Commission reaffirmed the additional conditions and thereafter this Court sustained the validity of the Commission's action. *United States* v. *Rock Island Motor Transit Company*, 340 U.S. 419 (1951).

(2) The routes between Harlan, Iowa, and Omaha, Nebraska, over Iowa Highway 64 and U. S. Highway 6 between Avoca, Iowa, and Atlantic, Iowa, over U. S. Highways 59 and 6, and return over Iowa Highway 93 were purchased by Motor Transit from Messrs. D. H. Frederickson and J. H. Frederickson in 1944. In *Rock Island Motor Transit—Purchase—Frederickson*, 39 M.C.C. 824 (1944), the Commission approved this purchase under Section 5(2) of the Interstate Commerce Act (49 U.S.C. 5(2)). As a condition of such approval Section 5(2)(b) required the Commission to make the same findings previously required by Section 213(a)(1) that the transaction would enable the parent Rock Island Railroad to use the trucking rights thus purchased to public advantage in the railroad's own operations.[5] The Commission in its original order did

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Bettendorf, Iowa, and Rock Island, Moline, and East Moline, Illinois.

4. All contractual arrangements between The Rock Island Motor Transit Company and The Chicago, Rock Island and Pacific Railway Company shall be reported and shall be subject to revision, if and as it is found to be necessary in order that such arrangements shall be fair and equitable to the parties.

5. Such further specific conditions as the Commission in the future, may find it necessary to impose in order to insure that the service shall be auxiliary to, or supplemental of, train service.

[5] Section 213 was repealed by the Transportation Act of 1940 (54 Stat. 924, Section 21(e)), and its substance carried forward into Section 5(2)(b) of the Interstate Commerce Act. There is a slight difference in wording in the proviso as found in Section 213(a)(1) and Section 5(2)(b). The Commission has held, however, that this difference is of no significance. *Scott Bros., Inc.—Central—W. G. Corp.*, 37 M.C.C. 225 (1941).

not impose any specific restrictions to effectuate this statutory requirement, but prior to the issuance of a certificate for the Frederickson Line rights, the agency reopened the proceeding as a part of its reconsideration of the White Line purchase, *supra*, p. 8, and in such reconsidered proceeding imposed the conditions enumerated above upon the Frederickson rights as well as the White Line rights. This Court also upheld the validity of the Frederickson conditions in *United States* v. *Rock Island Motor Transit Company*, 340 U.S. 419 (1951).

On September 11, 1951, following this Court's decision, the Commission issued Motor Transit a certificate covering the White Line and Frederickson Line purchases which contained the enumerated restrictions limiting Motor Transit's authority thereunder to operations auxiliary to or supplemental of its parent railroad's train service. Almost immediately thereafter Motor Transit on October 21, 1951, filed with the Commission an application purportedly under Section 207(a) of the Interstate Commerce Act for the grant of unrestricted operating rights over the identical routes it had acquired in purchase proceedings as set forth above.[9]

In orders dated November 22, 1954, reaffirmed on July 6, 1955, and September 9, 1955, the Commission granted Motor Transit's application. The agency re-

[9] During the pendency of this application Motor Transit obtained from the Commission temporary authority to operate over the routes involved without the restrictions which the agency had imposed, subject to a maximum weight limitation and to the further "keypoint" restriction that no shipment could be transported between Chicago and Omaha, or through, or to, or from, more than one of the points of Omaha and, collectively, Davenport, Bettendorf, Rock Island, Moline and East Moline.

fused to consider the evidence before it in the light of the limitations imposed by Section 5(2)(b) of the Interstate Commerce Act or to make the findings required by that Section that the parent railroad is able to use the operations involved to public advantage in its rail service. This refusal was based on the ground that Motor Transit's application was subject only to Sections 207 and 208 of the Interstate Commerce Act, which do not specifically contain the limitations of Section 5(2)(b), so that the application of the standards of the latter section of the statute in passing upon Motor Transit's application was a matter wholly committed to the agency's discretion, and that in the exercise of such discretion the Commission believed the public interest required the omission of the limitations.

Thereafter, the American Trucking Association, et al., filed a complaint in the District Court on June 19, 1956, asking for a permanent injunction against the effectiveness of the Commission's orders. The appellants filed motions to intervene in the case as parties plaintiffs and asked for permission to file complaints requesting that the Commission's orders be set aside and enjoined.[7] These motions, were not opposed, were granted by orders of the District Court entered on October 24, 1955, and the complaints of the intervening plaintiffs were filed the same day.

The appellants argued to the District Court, as they had to the Commission, that the agency as a matter of

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[7] Intervenors included two railway labor organizations not then affiliated with the appellant, Railway Labor Executives' Association. These organizations were the Brotherhood of Railroad Trainmen and the Order of Railway Conductors & Brakemen. On January 1, 1956, these two organizations became affiliated with the appellant Association.

law was required to measure the application of Motor Transit by the standards of Section 5(2)(b) of the Interstate Commerce Act. The District Court rejected this contention on the ground that the case involved only the issuance of a certificate and that the statutory requirements under which auxiliary and supplemental service limitations are imposed do not appear in Section 207(a) of the Act governing the issuance of certificates (Appendix B, p. 12a). The Court therefore affirmed the Commission's orders against the complaints of the appellants and granted judgment to the Commission and the United States.

The District Court gave no consideration to the fact that the application of Motor Transit was in substance a request to remove restrictions from a certificate issued to it pursuant to Section 5(2)(b) of the Interstate Commerce Act. Nor does its opinion reflect any consideration of the Commission's long-established practice of treating applications under Section 207(a) involving railroads or railroad subsidiaries as governed by the same basic considerations as applications by such parties under Section 5(2)(b).

The original plaintiffs, the American Trucking Association, et al., docketed their appeal from this judgment of the District Court on May 22, 1956, case No. 961.

THE QUESTIONS ARE SUBSTANTIAL

The issues involved in this appeal are of importance to the railroad industry and its employees and to the administration of the Interstate Commerce Act. The National Transportation Policy (49 U.S.C., preceding Section 1) declares it to be the policy of Congress to provide for regulation of all modes of transportation

subject to the Interstate Commerce Act so as to recognize and preserve the inherent advantages of each, to the end of developing, coordinating and preserving a national transportation system by water, highway and rail adequate to meet the needs of the commerce of the United States, of postal service, and of the national defense. This statement of policy also provides that all provisions of the Interstate Commerce Act are to be administered and enforced with a view to carrying out such declaration of policy.

One of the most important provisions in the statute for preserving the independence and inherent advantages of each mode of transportation is the proviso contained in Section 5(2)(b)[8] (and in former Section 213(a)(1)) which requires that in any case where a railroad or a subsidiary of a railroad is an applicant before the Commission for approval of a purchase or acquisition of a motor carrier, the Commission may not grant such approval "unless it finds that the transaction proposed will be consistent with the public interest and will enable such carrier to use service by motor vehicle to public advantage in its operations and will not unduly restrain competition."

The Court below found that in practical application this requirement means that the proposed service by motor vehicle must be auxiliary to or supplemental of the rail service of the railroad involved.[9] The enforce-

[8] 49 U.S.C. 5(2)(b).

[9] Such has been the application of the proviso of former Section 213(a)(1) and of present Section 5(2)(b) of the Interstate Commerce Act by the Commission. See *Pennsylvania Truck Lines, Inc. —Control—Barker*, 1 M.C.C. 101 (1936); *Northland-Greyhound Lines, Inc.—Purchase—Liederback*, 5 M.C.C. 215, 216 (1937); *Niagara Frt. Lines—Purchase—Westlake & Albertson*,

ment of such statutory requirement is important to the employees of the railroads in behalf of whom the present appeal is taken because any deviation therefrom must inevitably result in the weakening of rail carrier competition with trucking operations and in the abandonment of rail service to the detriment of the job security and the interest of all rail employees, including those of the Rock Island Railroad. In this case the Commission, without measuring the application of Motor Transit or the evidence submitted in support thereof against the cited statutory requirement of Section 5(2)(b), removed the restrictions on Motor Transit's certificate which the Commission had previously found were required by that section. It did so on the theory that Section 5(2)(b) was not applicable because the case before it was a certificate case and not an acquisition case, in spite of the fact that there was outstanding a certificate issued under the acquisition sections of the statute covering the identical routes. The judgment of the District Court affirming the Commission's action is, we believe, in direct conflict with the statutory requirements and can only result in the complete destruction of Section 5(2)(b) and of the National Transportation Policy embodied therein. Such judgment, if not reversed,

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5 M.C.C. 535, 537 (1938); *Southwestern Transportation Co.—Purchase—Hill & Howe*, 37 M.C.C. 83, 89 (1941). A trucking operation which is auxiliary to or supplemental of a rail operation is ordinarily one in which shipments move at rail rates and on rail bills of lading, and which must be connected with the rail service. *Texas & Pacific M. Transport Co. Com. Car. App.*, 47 M.C.C. 721 (1943). The Commission from time to time has varied the precise conditions which it believes necessary in a given case to ensure an auxiliary or supplemental operation. However, it has continually, until the present case kept rail-owned motor carriers within the basic concept. *United States* v. *Rock Island Motor Transit Co.*, 340 U.S. 419, 542 (1951).

also can have equally adverse effects upon the administration of the Civil Aeronautics Act.

1. This case involves the unique and almost unheard of feature of an applicant seeking a certificate to operate over routes already certificated to it by the same agency. It is doubtful whether the Interstate Commerce Commission or any other agency concerned with granting authorizations to engage in transportation has heretofore been confronted with such an application. Ordinarily, such application would be dismissed as a sheer waste of the administrative agency's time. However, in this case the Commission processed the application just as if it were a bona fide new route application and as if Motor Transit had no connection at all with the routes involved. However, it is clear from the facts that although the application was in form one for the grant of a new certificate under Section 207(a), its substance was a request to remove the restrictions previously imposed to make Motor Transit's operations auxiliary to or supplemental of the rail service of its parent, the Rock Island Railroad. This obvious purpose is stated in the findings of the Examiner as follows:

> "The restrictions and conditions set forth above were imposed on the certificate and authorities previously issued or granted, and as a result thereof applicant filed the captioned application for authority under section 207(a) of the Act seeking the identical authority it possessed prior to September 11, 1951, when the restrictions and conditions were imposed. The purpose of this application is to obtain operating authority not subject to restrictions or conditions that prevent applicant from operating as a motor carrier having no affiliation with a railroad.".

Since Motor Transit's clear purpose was not the grant of a route, but the removal of restrictions on its certificate for an existing route, it should have filed an application asking for modification of the conditions. Had it done so, no one would seriously contend that the Commission could have modified or removed the restrictions at its discretion without measuring the evidence adduced against the standards of Section 5(2)(b) and without making the findings which that Section requires.[10] Motor Transit sought to avoid that

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[10] The Commission clearly recognized its lack of discretion in applying the standards of Section 5(2)(b) to routes acquired by purchase in *Cincinnati, N. & C. Ry. Co.—Control—Lehigh Valley Transit*, 57 M.C.C. 4 (1950), in which it declared (pp. 49 and 52):

> "Applicants further contend that, assuming applicants are affiliated with the railway, it is not necessary that we find that the motor-vehicle service of the carriers of which control would be acquired would be used to public advantage by the railway in its operations, because the literal requirements of the proviso of section 5(2)(b) can be relaxed in order to carry out the declared national transportation policy. * * *
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> "Apparently applicants concede that they are unable to submit evidence sufficient to meet the proof requirements of the proviso of section 5(2)(b), the application contains no such evidence, and it is not apparent to us how those requirements can be met in view of the location of the railway, the nature of the service which it renders, and the location of the motor bus carriers which the partnership would indirectly control. We do not agree with the position of applicants that we are empowered to relax the specific requirements of the statute and find that this transaction would be consistent with the public interest, without also finding that the railroad would be enabled to use service by motor vehicle to public advantage in its operations. As stated in E. T. & W. N. C. M. Transportation Co.—Lease—Imperial Transp. Co., Inc., 5 M.C.C. 196: 'Inconvenience or hardships, if any, that result from following the statute as written must be relieved by legislation.'"

result by filing a certificate application purportedly under Section 207, and the Commission sanctioned this obvious evasion of the statute by erroneously treating the application as if it were a bona fide certificate application under such section completely unrelated to the prior acquisition cases and which raised only issues with respect to the public convenience and necessity.

If the Commission may validly do what it has done in this case, the proviso in Section 5(2)(b) becomes meaningless. A substantial portion of all trucking operations now performed in this country by railroads or their subsidiaries are performed over routes acquired subject to the restrictions of Section 5(2)(b) or of its predecessor Section 213, which limit those motor carrier services to those which are auxiliary or supplemental to the rail services of the railroad involved. Under the Commission's decision, every railroad in the country which has such an operation may now come in and apply to the Commission for a certificate under Section 207 authorizing it to operate over the same routes without the restrictions imposed by the acquisition provisions of the statute, and the Commission has complete discretion to grant the request without measuring it by the standards of Section 5. Indeed, if the Commission has correctly interpreted the statute, railroads may buy out independent motor carriers, accept the restrictions required by Section 5(2)(b), file an application under Section 207 for the same routes without the restrictions before the ink is dry on the certificate, and within a matter of a few months have their application granted.

Even assuming, *arguendo*, the correctness of the Commission's interpretation of Section 207(a) of the

Interstate Commerce Act in an appropriate case involving a new route application, we believe that the Commission's action here results in a clear evasion of the statute and represents a complete sacrifice of form for substance. This Court in *United States* v. *Seatrain Lines*, 329 U.S. 424 (1947) made clear that statutory requirements cannot be evaded by mere words and labels and that it is against the substance of Commission action that the validity of its orders must be measured.

In closely similar circumstances another federal agency, the Civil Aeronautics Board, characterized a like request for precisely what it was—a suggestion to the agency to read the applicable statutory requirements out of the act. In enacting the Civil Aeronautics Act of 1938, Congress showed the same concern for the preservation of the independence of air transportation from the control of service transportation as it has in maintaining the independence and inherent advantages of rail and motor carrier operations. It therefore placed in Section 408(b) of the Civil Aeronautics Act [49 U.S.C. 488(b)] the identical restrictions found in Section 5(2)(b) of the Interstate Commerce Act so that any surface carrier or a subsidiary thereof which wishes to acquire an air carrier can do so only if the Civil Aeronautics Board, the administering agency, finds that the transaction proposed "will promote the public interest by enabling such carrier other than an air carrier to use aircraft to public advantage in its operation and will not restrain competition." The Board has applied this restriction in the same manner as has the Interstate Commerce Commission in acquisition cases before it, i.e., it has required a showing that the air carrier operations will

be auxiliary to or supplemental of the applicant surface carrier's operations.[11] In the *Parks Investigation Case*, 11 C.A.B. 779 (1950), the Board had before it a wholly-owned subsidiary of a transcontinental bus company as an applicant for a certificate of public convenience and necessity to operate as an air carrier. The Board held that the relationship of the applicant to the transcontinental bus system would have to be acted upon by the Board under Section 408 of the Civil Aeronautics Act in the event the subsidiary should be granted a certificate. The parent bus company and the subsidiary then filed an application with the Board for approval of the transfer to the parent of any certificate which might be issued to the subsidiary in the proceeding. The application was predicated upon the assumption that the Board could transfer the certificate under Section 401(i) of the Civil Aeronautics Act [49 U.S.C. 481(i)] merely on findings of the public interest and that there would then be no necessity for an approval under Section 408 with its strict requirements like those of Section 5(2)(b) of the Interstate Commerce Act. The Board, in refusing to sanction this attempted evasion of the statute, stated (pp. 788, 789):

> "Basically what the applicants are thus asking us to do is to read section 408 out of the Act through the device of a transfer under section 401(i). In so doing they presume that the requirements of section 408, as applied to this case, are merely technical in nature, and that they may be avoided by another technicality. However, such an approach misconstrues the real nature of the problem confronting us in this proceeding. That

[11] *American Export Airlines, Inc.—American Export Lines Control—American Export Airlines*, 3 C.A.B. 619 (1942).

problem arises out of a clear statutory directive to restrict control of an air carrier by a surface carrier to those instances where the test of the second proviso of section 408 can be met. The courts have applied such directive to the type of situation before us. This mandate is not a mere legal technicality. It represents a substantive declaration of policy which it is our statutory obligation to enforce. We do not believe that it would be consistent with the public interest for us to attempt to avoid this obligation through the device of a transfer under section 401(i) of the Act, which does not eliminate the relationship which Congress intended to restrict. On this ground alone we would not entertain such a proposal."

This action of the Board came before the United States Court of Appeals for the District of Columbia Circuit in *Continental Southern Lines* v. *Civil Aeronautics*, 197 F. 2d 397, 403 (1952), cert. den. 344 U.S. 831, and was sustained by that Court. On this point the Court declared:

"... *Even if the necessity for actual proceedings under § 408 could be avoided by the device suggested, a result we seriously question*, the transfer could not be approved unless the Board thought it in the public interest. And the concept of 'public interest' for the purposes of a transfer is just as broad as 'public interest' on an original certification proceeding. In both cases, it includes the policies and standards of § 408(b)...." (Emphasis supplied.)

If the judgment of the court below is sustained, then not only have the Commission and the railroads effectively read Section 5(2)(b) out of the Interstate Commerce Act, but also the door has been opened wide to a similar destruction of the requirements of Section 408(b) of the Civil Aeronautics Act.

2. The Commission's determination that the ability of a railroad subsidiary to meet the restrictive standards of the proviso in Section 5(2)(b) is not a necessary requirement in the adjudication of an application of such subsidiary for a certificate of public convenience and necessity to operate as a motor carrier under Section 207(a) is contrary to the expressed policy of the statute and the Commission's past application of that policy.

The National Transportation Policy [49 U.S.C., preceding section 1] requires, *inter alia*, the recognition and preservation of the inherent advantages of each mode of transportation covered by the Interstate Commerce Act. The Commission has found that the achievement of this policy as applied to motor carrier operations by railroads and railroad subsidiaries requires the restriction of such operations to those which are auxiliary to or supplemental of the rail service of the railroad involved. *Pennsylvania Truck Lines, Inc.—Control—Barker*, 1 M.C.C. 101 (1936), 5 M.C.C. 9 (1937); *Kansas City Southern Transport Company, Inc.—Com. Car. App.*, 10 M.C.C. 21 (1938). In the present case the Commission takes the position that it need not apply this Congressional purpose because Section 207(a) does not contain the specific implementation which is found in the proviso of Section 5(2)(b). However, Congress did not so limit its purpose. The last sentence of the National Transportation Policy states that, "All of the provisions of this Act shall be administered and enforced with a view to carrying out the above declaration of policy." The effect of this language is to require the Commission to carry out the congressional purpose to the same extent in the administration of Section 207(a) as it does

in the administration of Section 5(2)(b). Congress has written limitations into Section 207(a) upon railroad entry into motor carrier service just as plainly and clearly as if it had inserted into that section the actual words appearing in Section 5(2)(b).

The requirement of a uniform administration of the certificate and acquisition provisions of the Interstate Commerce Act and a correlation of the two has been recognized by the Commission and by the courts. In *Associated Transport, Inc.—Purchase—Russell*, 55 M.C.C. 177 (1948), the Commission declared (p. 183):

> "Although the facts dealt with are dissimilar, the same National Transportation Policy applies and the same basic considerations govern, in the disposition of applications under section 5 and section 207 of the Act."

To the same effect is the statement of this Court in *Interstate Commerce Commission* v. *Railway Labor Executives Association*, 315 U.S. 373, 376, 377 (1942), that the Commission must carry out the purposes of the statute in applying the phrase "public convenience and necessity" to the same extent that it does in acting under Section 5.

The Commission has strengthened this construction of the statute by its long and consistent uniform application of the auxiliary or supplemental restrictions to cases both under Section 5 and Section 207. In the earlier case involving Motor Transit, *Rock Island Motor Transit Company—Purchase—White Line M. Frt.*, 40 M.C.C. 457 (1946), the Commission reviewed its past application in Section 207 proceedings of the requirements of Section 213. (Pages 461 and 462.) It concluded (page 468) that Congress in re-enacting

Section 213 into Section 5(2) in 1940 had given its approval of this established administrative practice. Finally, the Commission categorically stated that the requirements of the National Transportation Policy required the same treatment for railroad or railroad controlled applicants in Section 207 cases as in Section 5 cases (page 471):

> "From a regulatory standpoint motor-carrier operations conducted by a railroad affiliate should be the same whether the authority under which they are conducted was acquired by an application under Section 207 or by purchase . . . ."

Such Commission application of the requirements of Section 5(2)(b) in Section 207 proceedings has been recognized by this Court in both *United States* v. *Rock Island Motor Transit Co.*, 340 U.S. 419, 450 (1951), and in *United States* v. *Texas and Pacific Motor Transport Co.*, 340 U.S. 450, 459 (1951).

The Commission's practice also received the sanction of this Court in *Interstate Commerce Commission* v. *Parker*, 326 U.S. 60 (1945), which involved an application under Section 207 for extension of motor carrier operating rights by a wholly owned subsidiary of the Pennsylvania Railroad Company. This Court upheld the Commission's action in granting a certificate which was restricted to services truly supplementary or auxiliary to the operations of the parent railroad. The Court reviewed the legislative history of the Motor Carrier Act of 1935 and concluded that railroads may operate trucks "in appropriate places." (pp. 66, 67.) The Court then went on to uphold the validity of the grant of a certificate to the railroad subsidiary and, in so doing, repeatedly emphasized the

limited nature of the certificate and the coordinated rail-motor service provided.

It is submitted that the decision of the District Court fails to recognize the real substance of the Commission's action and permits a complete circumvention of the statutory requirements. It further fails to give proper recognition to the Commission's long-established construction of the statute and to Congressional approval thereof upon which the Commission itself relied as a basis for continuation of such construction. We believe that the questions presented by this appeal are substantial and that they are of public importance.

CONCLUSION

For the foregoing reasons, jurisdiction should be noted and the judgment of the District Court reversed.

Respectfully submitted,

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May 24, 1956.

APPENDIX A

STATUTES INVOLVED

Administrative Procedure Act (5 U. S. C. A. 1000 et seq.)

Section 10. (a):

Any person suffering legal wrong because of any agency action, or adversely affected or aggrieved by such action within the meaning of any relevant statute, shall be entitled to judicial review thereof.

Judicial Code (28 U. S. C. A. 1 et seq.)

§ 1336. *Interstate Commerce Commission's orders*

Except as otherwise provided by Act of Congress, the district courts shall have jurisdiction of any civil action to enforce, enjoin, set aside, annul or suspend, in whole or in part, any order of the Interstate Commerce Commission. June 25, 1948, c. 646, 62 Stat. 931."

§ 1398. *Interstate Commerce Commission's orders*

Except as otherwise provided by law, any civil action to enforce, suspend or set aside in whole or in part an order of the Interstate Commerce Commission shall be brought only in the judicial district wherein is the residence or principal office of any of the parties bringing such action. June 25, 1948, c. 646, 62 Stat. 936.

§ 2284(1). *Three-judge district court; composition; procedure*

In any action or proceeding required by Act of Congress to be heard and determined by a district court of three judges the competition and procedure of the court, except as otherwise provided by law, shall be as follows:

(1) The district judge to whom the application for injunction or other relief is presented shall constitute one member of such court. On the filing of the application, he shall immediately notify the chief judge of the circuit,

who shall designate two other judges, at least one of whom shall be a circuit judge. Such judges shall serve as members of the court to hear and determine the action or proceeding.

§ 2323. *Duties of Attorney General; intervenors*

The Attorney General shall represent the Government in the actions specified in section 2321 of this title and in actions under sections 20, 23, and 43 of Title 49, in the district courts, and in the Supreme Court of the United States upon appeal from the district courts. As amended May 24, 1949, c. 139, § 116, 63 Stat. 105.

The Interstate Commerce Commission and any party or parties in interest to the proceeding before the Commission, in which an order or requirement is made, may appear as parties of their own motion and as of right, and be represented by their counsel, in any action involving the validity of such order or requirement or any part thereof, and the interest of such party:

Communities, associations, corporations, firms, and individuals interested in the controversy or question before the Commission, or in any action commenced under the aforesaid sections may intervene in said action at any time after commencement thereof.

The Attorney General shall not dispose of or discontinue said action or proceeding over the objection of such party or intervenor, who may prosecute, defend, or continue said action or proceeding unaffected by the action or nonaction of the Attorney General therein. June 25, 1948, c. 646, 62 Stat. 970, amended May 24, 1949, c. 139, § 116, 63 Stat. 105.

§ 2325. *Injunction; three-judge court required*

An interlocutory or permanent injunction restraining the enforcement, operation or execution, in whole or in

part, of any order of the Interstate Commerce Commission shall not be granted unless the application therefor is heard and determined by a district court of three judges under section 2284 of this title. June 25, 1948, c. 646, 62 Stat. 970.

§ 1253. *Direct appeals from decisions of three-judge courts.*

Except as otherwise provided by law, any party may appeal to the Supreme Court from an order granting or denying, after notice and hearing, an interlocutory or permanent injunction in any civil action, suit or proceeding required by any Act of Congress to be heard and determined by a district court of three judges. June 25, 1948, c. 646, 62 Stat. 926.

§ 2101. *Supreme Court; time for appeal or certiorari; docketing; stay*

(b) Any other direct appeal to the Supreme Court which is authorized by law, from a decision of a district court in any civil action, suit or proceeding, shall be taken within thirty days from the judgment, order or decree, appealed from, if interlocutory, and within sixty days if final.

National Transportation Act of 1940 (49 U. S. C. 1 et seq.)

NATIONAL TRANSPORTATION POLICY (49 U. S. C., preceding sections 1, 301, 901 and 1001)

"It is hereby declared to be the national transportation policy of the Congress to provide for fair and impartial regulation of all modes of transportation subject to the provisions of this Act, so administered as to recognize and preserve the inherent advantages of each; to promote safe, adequate, economical, and efficient service and foster sound economic conditions in transportation and among the several carriers; to encourage the establishment and maintenance of reasonable charges for transportation services, without unjust discriminations, undue prefer-

ences or advantages, or unfair or destructive competitive practices; to cooperate with the several States and the duly authorized officials thereof; and to encourage fair wages and equitable working conditions;—all to the end of developing, coordinating, and preserving a national transportation system by water, highway, and rail, as well as other means, adequate to meet the needs of the commerce of the United States, of the Postal Service, and of the national defense."

INTERSTATE COMMERCE ACT (49 U. S. C. 1 *et seq.*)

Section 5 (2) (a) It shall be lawful, with the approval and authorization of the Commission, as provided in subdivision (b)—

(i) for two or more carriers to consolidate or merge their properties or franchises, or any part thereof, into one corporation for the ownership, management, and operation of the properties theretofore in separate ownership; or for any carrier, or two or more carriers jointly, to purchase, lease or contract to operate the properties, or any part thereof, of another; or for any carrier, or two or more carriers jointly, to acquire control of another through ownership of its stock or otherwise; or for a person which is not a carrier to acquire control of two or more carriers through ownership of their stock or otherwise; or for a person which is not a carrier and which has control of one or more carriers to acquire control of another carrier through ownership of its stock or otherwise; or

(ii) for a carrier by railroad to acquire trackage rights over, or joint ownership in or joint use of, any railroad line or lines owned or operated by any other such carrier, and terminals incidental thereto.

Section 5 (2) (b) Whenever a transaction is proposed under subparagraph (a), the carrier or carriers or person

seeking authority therefor shall present an application to the Commission, and thereupon the Commission shall notify the Governor of each State in which any part of the properties of the carriers involved in the proposed transaction is situated, and also such carriers and the applicant or applicants (and, in case carriers by motor vehicle are involved, the persons specified in section 205 (e)), and shall afford reasonable opportunity for interested parties to be heard. If the Commission shall consider it necessary in order to determine whether the findings specified below may properly be made, it shall set said application for public hearing; and a public hearing shall be held in all cases where carriers by railroad are involved unless the Commission determines that a public hearing is not necessary in the public interest. If the Commission finds that, subject to such terms and conditions and such modifications as it shall find to be just and reasonable, the proposed transaction is within the scope of subparagraph (a) and will be consistent with the public interest, it shall enter an order approving and authorizing such transaction, upon the terms and conditions, and with the modifications, so found to be just and reasonable: PROVIDED, That if a carrier by railroad subject to this part, or any person which is controlled by such a carrier, or affiliated therewith within the meaning of paragraph (6), is an applicant in the case of any such proposed transaction involving a motor carrier, the Commission shall not enter such an order unless it finds that the transaction proposed will be consistent with the public interest and will enable such carrier to use service by motor vehicle to public advantage in its operations and will not unduly restrain competition.

Section 205 (g) (49 U. S. C. Section 305 (g)) Any final order made under this part shall be subject to the same right of relief in court by any party in interest as is now provided in respect to orders of the Commission made under part I: *Provided*, That, where the Commission, in respect of any matter arising under this part, shall have

issued a negative order solely because of a supposed lack of power, any such party in interest may file a bill of complaint with the appropriate District Court of the United States, convened under section 2284 of title 28 of the United States Code, and such court, if it determines that the Commission has such power, may enforce by writ of mandatory injunction the Commission's taking of jurisdiction.

Application for Certificate of Public Convenience and Necessity

Sec. 206 (August 9, 1935, amended June 29, 1938, September 18, 1940, September 1, 1950.) (49 U.S.C. Sec. 306.) (a) (1) Except as otherwise provided in this section and in section 210a, no common carrier by motor vehicle subject to the provisions of this part shall engage in any interstate or foreign operation on any public highway, or within any reservation under the exclusive jurisdiction of the United States, unless there is in force with respect to such carrier a certificate of public convenience and necessity issued by the Commission authorizing such operations: *Provided, however*, That, subject to section 210, if any such carrier or predecessor in interest was in bona fide operation as a common carrier by motor vehicle on June 1, 1935, over the route or routes or within the territory for which application is made and has so operated since that time, or if engaged in furnishing seasonal service only, was in bona fide operation on June 1, 1935, during the season ordinarily covered by its operation and has so operated since that time, except in either instance as to interruptions of service over which the applicant or its predecessor in interest had no control, the Commission shall issue such certificate without requiring further proof that public convenience and necessity will be served by such operation, and without further proceedings, if application for such certificate is made to the Commission as provided in paragraph (b) of this section and within one hundred and twenty days

after this section shall take effect, and if such carrier was registered on June 1, 1935, under any code of fair competition requiring registration, the fact of registration shall be evidence of bona fide operation to be considered in connection with the issuance of such certificate. Otherwise the application for such certificate shall be decided in accordance with the procedure provided for in section 207(a) of this part and such certificate shall be issued or denied accordingly. Pending the determination of any such application the continuance of such operation shall be lawful: *And provided further*, That this paragraph shall not be so construed as to require any such carrier lawfully engaged in operation solely within any State to obtain from the Commission a certificate authorizing the transportation by such carrier of passengers or property in interstate or foreign commerce between places within such State if there be a board in such State having authority to grant or approve such certificates and if such carrier has obtained such certificate from such board. Such transportation shall, however, be otherwise subject to the jurisdiction of the Commission under this part.

Section 207. [*August 9, 1935*] [49 U. S. C., § 307.] (a) Subject to section 210, a certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of this part and the requirements, rules, and regulations of the Commission thereunder, and that the proposed service, to the extent to be authorized by the certificate, is or will be required by the present or future public convenience and necessity; otherwise such application shall be denied: *Provided, however*, That no such certificate shall be issued to any common carrier of passengers by motor vehicle for operations over other than a regular route or routes, and between fixed termini, except

as such carrier may be authorized to engage in special or charter operations.

(b) No certificate issued under this part shall confer any proprietary or property rights in the use of the public highways.

Section 208. [*August 9, 1935.*] [49 U. S. C., § 308.] (a) Any certificate issued under section 206 or 207 shall specify the service to be rendered and the routes over which, the fixed termini, if any, between which, and the intermediate and off-route points, if any, at which, and in case of operations not over specified routes or between fixed termini, the territory within which, the motor carrier is authorized to operate; and there shall, at the time of issuance and from time to time thereafter, be attached to the exercise of the privileges granted by the certificate such reasonable terms, conditions, and limitations as the public convenience and necessity may from time to time require, including terms, conditions, and limitations as to the extension of the route or routes of the carrier, and such terms and conditions as are necessary to carry out, with respect to the operations of the carrier, the requirements established by the Commission under section 204 (a) (1) and (6): *Provided, however*, That no terms, conditions, or limitations shall restrict the right of the carrier to add to his or its equipment and facilities over the routes, between the termini, or within the territory specified in the certificate, as the development of the business and the demands of the public shall require.

(b) A common carrier by motor vehicle operating under any such certificate may occasionally deviate from the route over which, and/or the fixed termini between which, it is authorized to operate under the certificate, under such general or special rules and regulations as the Commission may prescribe.

(c) Any common carrier by motor vehicle transporting passengers under a certificate issued under this part may

transport in interstate or foreign commerce to any place special or chartered parties under such rules and regulations as the Commission shall have prescribed.

(d) A certificate for the transportation of passengers may include authority to transport in the same vehicle with the passengers, newspapers, baggage of passengers, express, or mail, or to transport baggage of passengers in a separate vehicle.

Section 213 (a) (1) [49 U. S. C. Section 313 (a)(1)] Whenever a consolidation, merger, purchase, lease, operating contract, or acquisition of control is proposed under this section, the carrier or carriers or the person seeking authority therefor shall present an application to the commission, and thereupon the commission shall, after such notice as is required by section 205 (f) and if deemed by it necessary in order to determine whether the findings specified below may properly be made, set said application down for public hearing. If the commission finds that the transaction proposed will be consistent with the public interest and that the conditions of this section have been or will be fulfilled, it may enter an order approving and authorizing such consolidation, merger, purchase, lease, operating contract, or acquisition of control, upon such terms and conditions as it shall find to be just and reasonable and with such modifications as it may prescribe: *Provided, however*, That if a carrier as defined in section 1(3) of Part I, or any person which is controlled by such a carrier or affiliated therewith within the meaning of section 5(8) of this title, is an applicant, the commission shall not enter such an order unles it finds that the transaction proposed will promote the public interest, enabling such carrier to use service by motor vehicle to public advantage in its operations and will not unduly restrain competition.

APPENDIX B

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Civil Action No. 3171-55

AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL., *Plaintiffs*,

v.

UNITED STATES OF AMERICA and INTERSTATE COMMERCE COMMISSION, ET AL., *Defendants*.

MEMORANDUM OPINION

Before Prettyman, Circuit Judge, and Pine and Holtzoff, District Judges, sitting as a statutory three-judge court.

PRETTYMAN, *Circuit Judge:* The Chicago, Rock Island and Pacific Railroad Company is a through trunk-line railroad operating, so far as is here pertinent, across the State of Iowa from Davenport to Council Bluffs. It owns a subsidiary, called herein "Motor Transit", which owns operating rights and property as a motor carrier on routes paralleling or stemming from the Railroad route. The motor carrier certificates have heretofore contained limitations requiring that the motor service be auxiliary or supplementary to the rail service, but those limitations were stayed and have never been enforced. The motor carrier applied for a certificate without the restrictions. The application was opposed by other motor carriers. After extensive proceedings the Interstate Commerce Commission granted the application, subject to the conditions that there might be attached such reasonable terms, conditions, and limitations as the public convenience and necessity might require and that all contractual arrangements with the Railroad should be reported to the Commission and be subject to its revision. Petition for reconsideration having been denied, this action to set aside the order was brought by motor carriers operating in the same general area as Motor Transit.

The pub of the controversy is in two parts, (1) whether the Commission has power to grant a certificate to a motor carrier wholly owned by a railroad without a restriction that the service shall be auxiliary or supplementary to the railroad service and (2), if so, whether the findings of the Commission to the effect that the public convenience and necessity justified the grant in the present case were supported by evidence in the record.

Two sections of the Interstate Commerce Act, as now amended, are involved. Section 5(2)(b)[1] provides that, whenever a carrier by railroad, or its subsidiary, is an applicant for approval of a transaction involving a motor carrier, the Commission shall not approve unless it finds, *inter alia*, that the transaction will enable the carrier to use service by motor vehicle to public advantage in its operations. This section governs the acquisition of motor carriers by railroads. Section 207(a) of the Act[2] provides that a certificate shall be issued to any qualified applicant therefor if it is found, *inter alia*, that the proposed service is or will be required by the present or future public convenience and necessity. This latter section (207(a)) does not contain the requirement which appears in the former section (5(2)(b)) that the proposed service must be used in the operation of the railroad if a railroad is the applicant. It is agreed that the requirement that the service be used in the operation of the railroad applicant means that the service must be auxiliary or supplementary to the rail service.

Plaintiffs say that the requirement which appears in Section 5(2)(b) must be read into Section 207(a) and therefore controls in the issuance of certificates where a railroad, or its subsidiary, is the applicant. The Commission says the requirement is notably omitted from the terms of

[1] Formerly Sec. 213(a)(1), amended Aug. 2, 1949, 63 STAT. 485, 49 U.S.C.A. § 5(2)(b).

[2] As enacted Aug. 9, 1935, 49 STAT. 551, 49 U.S.C.A. § 307(a).

Section 207(a); that the policy, not the terms, of the requirement applies to the issuance of certificates under 207(a). It says a policy requirement is not so rigid as a flat requirement in terms but is flexible and permits a grant in exceptional circumstances where the Commission finds that the public interest, convenience and necessity require the grant.

We agree with the contention of the Commission in the foregoing respect. The case concerns the issuance of a certificate.[3] Certainly the terms of the requirement as to auxiliary and supplementary service do not appear in Section 207(a). It is equally certain that the policy of the requirement, being a basic policy in the statute, does apply. The difference between a rigid requirement and an applicable policy is one of flexibility and permits the Commission to be governed in exceptional circumstances by the needs of the public convenience and necessity.

This brings us to the second main part of the controversy. The traffic consists of intrastate traffic, rail originated traffic, and interstate "peddle" traffic. The rail originated traffic goes, through natural course of events, to Motor Transit. That service is largely auxiliary or supplementary to the train service and is not actually involved in the controversy. Certificates for the intrastate traffic are issued by the State of Iowa, and that State follows the usual rule of public utility regulation that where the business makes economically feasible only one carrier it will certificate only one. It has certificated Motor Transit for the intrastate traffic along the routes here involved, and so that traffic is not actually involved in the present controversy. The so-called interstate peddle operation is one in

[3] See Interstate Commerce Comm'n v. Parker, 326 U.S. 60, 89 L. Ed. 2051, 65 S. Ct. 1490 (1945); United States v. Rock Island Co., 340 U.S. 419, 428, 431, 442, 95 L. Ed. 391, 71 S. Ct. 382 (1951); United States v. Texas & Pac. Co., 340 U.S. 450, 95 L. Ed. 509, 71 S. Ct. 422 (1951).

which the motor carrier, starting with a full truckload, moves interstate and distributes that load at various points of destination; or, in reverse, a truck picks up parts of loads at various points of origin and eventually transports interstate a full truckload. This is really the traffic which is involved in the pending case. The Commission found, in effect, that this peddle operation, standing alone, is not a profitable one and that the trend of motor carriers operating in Iowa has been to refrain from rendering this service; that the business communities along the routes need this sort of service; and that Motor Transit, already having rail originated and intrastate traffic, can readily render this additional service. As a matter of fact Motor Transit has operated since its first acquisition in 1938 without the restrictions here in issue. During that period it satisfactorily performed this particular service. Actually the result of sustaining the motor carriers' position would be a privilege to them of giving the service now rendered by Motor Transit if they so desire and refusing to give it when it is economically not feasible. That would not appear to serve the public interest.

We think the position of the Commission is well taken on the evidence. Voluminous testimony was produced. The findings are extensive. The conclusion that the grant appears necessary in the public interest is well founded. Judgment will be rendered for the defendants.

E. Barrett Prettyman
David A. Pine
Alexander Holtzoff

Dated 1/11/56

APPENDIX C

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Civil Action No. 3171-55

AMERICAN TRUCKING ASSOCIATIONS, INC. ET AL., *Plaintiffs*

v.

UNITED STATES OF AMERICA and INTERSTATE COMMERCE COMMISSION, ET AL., *Defendants*

JUDGMENT

This action to enjoin and set aside an order of the Interstate Commerce Commission, having come on for final hearing on December 15, 1955, before a duly constituted three-judge District Court, convened pursuant to Sections 2284 and 2321-2325, Title 28, United States Code, consisting of the undersigned judges; and the Court having considered the pleadings and evidence, and the briefs and arguments of counsel for the respective parties; and being fully advised in the premises; and having on January 11, 1956, filed herein its opinion holding that the order of the Interstate Commerce Commission herein assailed is valid and that judgment will be rendered for defendants; now in accordance with the said opinion,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED That the relief sought herein be, and the same hereby is, denied, and judgment be, and the same hereby is, rendered for the defendants, with costs assessed against the plaintiff and intervening plaintiffs.

This 27th day of January, 1956.

/s/ E. BARRETT PRETTYMAN
United States Circuit Judge

/s/ DAVID A. PINE
United States District Judge

/s/ ALEXANDER HOLTZOFF
United States District Judge

APPENDIX D

INTERSTATE COMMERCE COMMISSION

No. MC-29130 (Sub-No. 70)

THE ROCK ISLAND MOTOR TRANSIT COMPANY
COMMON CARRIER APPLICATION

Submitted March 8, 1954 *Decided November 22, 1954*

Public convenience and necessity found to require operation by applicant as a common carrier by motor vehicle in interstate or foreign commerce, of general commodities, with exceptions, between certain points in Illinois, Iowa, and Nebraska, over regular routes, serving designated intermediate and off-route points, subject to conditions. Issuance of a certificate approved, and application in all other respects denied.

A. B. Howland and *J. H. Martin* for applicant.

D. C. Nolan, Henry A. Archambo, Ernest Porter, and *R. H. Heinecamp* for interveners in support of the application.

Albert B. Rosenbaum, Rex H. Fowler, Homer E. Bradshaw, Eugene L. Cohn, Bernard G. Colby, Edgar Watkins, William B. Adams, James F. Pinkney, Joseph E. Ludden, Stephen Robinson, Walter V. Huston, and *William A. Landau* for protestant and interveners in opposition.

REPORT OF THE COMMISSION

BY THE COMMISSION:

Exceptions to the order recommended by the examiner were filed by a protestant and nine motor-carrier interveners in opposition. Applicant and interveners in support of the application replied to the exceptions. The case was

orally argued before us. Our conclusions differ slightly from those recommended.

By application filed October 26, 1951, as amended, The Rock Island Motor Transit Company, hereinafter called applicant or Motor Transit, of Chicago, Ill., seeks a certificate authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, of general commodities, except nitroglycerine, commodities of unusual value, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, (1) between Chicago, Ill., and Omaha, Nebr., from Chicago over U. S. Highway 34 to junction of Illinois Highway 92, thence over Illinois Highway 92 to junction of U. S. Highway 6, and thence over U. S. Highway 6 to Omaha, (2) between Iowa City, Iowa, and Cedar Rapids, Iowa, from Iowa City over U. S. Highway 218 to Cedar Rapids, (3) between Harlan, Iowa, and Omaha, Nebr., from Harlan over Iowa Highway 64 to Council Bluffs, Iowa, and thence over U. S. Highway 6 to Omaha, (4) between Avoca, Iowa, and Atlantic, Iowa, (*a*) from Avoca over U. S. Highway 59 to junction U. S. Highway 6, and thence over U. S. Highway 6 to Atlantic, and (*b*) from Avoca over Iowa Highway 83 to Atlantic, and (5) return in each instance over the same routes, serving the intermediate points of East Moline, Silvis, Moline, and Rock Island, Ill., and Bettendorf, Davenport, Durant, Wilton Junction, Atalissa, West Liberty, Iowa City, Coralville, Tiffin, Homestead, Marengo, Ladora, Victor, Brooklyn, Grinnell, Newton, Colfax, Altoona, Des Moines, Dexter, Stuart, Menlo, Casey, Adair, Anita, Wiota, Atlantic, Oakland, Council Bluffs, Weston, Underwood, Minden, Neola, Corley, Walnut, Marne, and Hancock, Iowa, and the off-route points of Walcott, Muscatine, Stockton, Moscow, Oxford, South Amana, Malcom, Kellogg, Mitchellville, and Shelby, Iowa. The Regular Common Carrier Conference, of the American Trucking Associations, Inc.,

and 11 motor carriers oppose the granting of the application.

Applicant is a wholly owned subsidiary of the Chicago, Rock Island and Pacific Railroad Company, hereinafter called Rock Island. It conducts motor common carrier regular-route operations in Illinois, Indiana, Iowa, Nebraska, Minnesota, Missouri, Kansas, Texas, Tennessee, Arkansas, and Oklahoma, subject in certain instances to various restrictions affecting different route segments. This proceeding primarily relates to applicant's authorized routes within the State of Iowa (except those between Cedar Rapids and Decorah, between Muscatine and Kalona, and between Wellman and West Chester) and those extending beyond to Chicago, Ill., Omaha, Nebr., Minneapolis-St. Paul, Minn., and Kansas City, Mo.

The history of the transactions and circumstances leading to the instant proceeding and the evidence adduced herein are set forth in the examiner's report in much detail. On exceptions, protestant and interveners opposing the application challenge the examiner's findings of fact and conclusions drawn therefrom; however, in no instance has specific reference been made to the page or pages of the transcript upon which they rely to refute the examiner's findings. Although we may not agree in every instance with the emphasis which the examiner has given certain of the evidence submitted in this proceeding, our review of the record indicates that basically his findings of fact are sound, and no useful purpose would be served by repeating them once again. Under these circumstances we adopt substantially the statement of issues and the evidence as reported by the examiner with such modifications and added discussion thereof as appear necessary and proper.

Prior to August 30, 1951, applicant operated over U. S. Highway 6 under a certificate, subject to the condition or reserved right of the Commission later to impose such restrictions which might be found necessary to insure, that

the service should be limited to that which is auxiliary to, or supplemental of, train service of Rock Island and shall not unduly restrain competition, and as to the remainder of the authority sought under an approved purchase without any provision for the issuance of a certificate containing such condition or reserved right. On September 11, 1951, it was issued a certificate specifying operations over the described routes, containing the following restrictions:

1. The service to be performed by The Rock Island Motor Transit Company shall be limited to service which is auxiliary to, or supplemental of, train service of The Chicago, Rock Island and Pacific Railway Company.

2. The Rock Island Motor Transit Company shall not render any service to, or from, or interchange traffic at any point not a station on the rail line of The Chicago, Rock Island and Pacific Railway Company.

3. No shipments shall be transported by The Rock Island Motor Transit Company between any of the following points, or through, or to, or from, more than one of said points: Omaha, Nebr., Des Moines, Iowa, and collectively Davenport and Bettendorf, Iowa, and Rock Island, Moline, and East Moline, Ill.

4. All contractual arrangements between The Rock Island Motor Transit Company and The Chicago, Rock Island and Pacific Railway Company shall be reported to us and shall be subject to revision, if and as we find it to be necessary in order that such arrangements shall be fair and equitable to the parties.

5. Such further specific conditions as we, in the future, may find it necessary to impose in order to insure that the service shall be auxiliary to, or supplemental of, train service.

Our power to impose these restrictions pursuant to the reserved condition was affirmed by the United States Supreme Court in *United States* v. *Rock Island Motor Transit Co.*, 340 U. S. 419. However, Motor Transit in this proceeding seeks by the testimony of numerous witnesses to establish that its continued operation unencumbered by these

restrictions is necessary in the public interest. The route over U. S. Highway 6 in Iowa is the heart of Motor Transit's operations in that State, and such restrictions not only affect that route but also a number of other routes which are not similarly restricted.

Prior to the issuance of the certificate dated September 11, 1951, containing the above-described 5 conditions, applicant was issued certain temporary authorities and pursuant thereto may transport general commodities, with exceptions, over the routes described in the application, subject to a maximum weight limitation of 5,000 pounds, and further subject to the restriction that no shipment may be transported between Chicago and Omaha, nor between any of the following points, or through, or to, or from, more than one of said points: Omaha, and collectively, Davenport, Bettendorf, Rock Island, Moline, and East Moline. This presently effective temporary authority expires concurrently with the final decision in this proceeding, and applicant has been and is now operating pursuant to it, which is less restrictive in the conditions to which it is subject than those contained in applicant's certificate of September 11, 1951.

Applicant's balance sheet as of January 31, 1952, shows assets of $1,858,620, and liabilities of $1,758,620, excluding capital stock, but including $873,527 advances payable to Rock Island, $250,000 long-term bank loan, and $149,764 unappropriated surplus. As of October 26, 1951, applicant owned and operated 152 trucks, 228 tractors, 303 trailers, 4 service trucks, and 4 buses. It is fit and able, financially and otherwise, properly to conduct the proposed operation.

Prior to discussing the arguments raised on exceptions and oral argument, a brief resume of the evidence for and against the granting of the application will be helpful. The Iowa State Commerce Commission supports the application. It is the view of that body that applicant is the only carrier that, for a number of years prior to September 1951,

had been rendering an adequate and efficient service on less-than-truckload freight at the many small points on the considered routes and certain points on its authorized routes adjacent thereto, and the only carrier since that date that has been providing consistent service to the extent authorized under its temporary authorities. Because of the weight and "key point" limitations contained in the temporary authorities, the service rendered thereunder is not regarded as adequate. During the 2 years preceding the hearing in the spring of 1952, the trend of motor carriers operating in Iowa generally has been to refrain from rendering local service on small shipments. This State commission grants intrastate authority to only one motor carrier to serve points on a given route.

Chambers of commerce and other commercial organizations at Davenport, Omaha, Chicago, Des Moines, St. Joseph, Mo., Mason City, Muscatine, Ottumwa, Iowa City, Burlington, Cedar Rapids, and Atlantic, Iowa, and Minneapolis, Minn., and East Moline, Moline, and Rock Island, Ill., representing in excess of 2,300 members, ship various commodities in lots of less than 15,000 pounds and sometimes in truckloads to the destinations here involved. It is the view of their membership that rail service is too slow and that the unrestricted service proposed by applicant is essential to the proper conduct of their members' businesses as there is no other motor carrier maintaining the complete peddle service rendered by applicant prior to the imposition of the restrictions. Pool-car distribution is made from some of the described points.

Eight motor carriers have been and are interlining traffic with applicant, principally at Chicago and the Tri-Cities. Generally these carriers do not ordinarily experience any difficulty in interlining shipments destined to the larger points of population on U. S. Highway 6, such as Des Moines and Newton, but they are of the opinion that applicant must be in a position to serve these points and to handle overhead traffic in order to provide the required

service, particularly the expensive peddle operations, at the smaller points to avoid sustaining a loss on the entire operation. Several of these carriers are members of the American Trucking Associations, Inc., which is opposing the application.

Thirty-eight shippers and receivers of a large variety of commodities located at Kansas City, Mo., East Chicago and Chicago, Ill., Beatrice and Omaha, Nebr., Minneapolis, Minn., and Clinton, Muscatine, Kalona, Wellman, Columbus Junction, Washington, Pella, Prairie City, Oskaloosa, Fairfield, Brayton, Exira, Hamlin, Audubon, Lewis, Griswold, Carson, and Treynor, Iowa, points served by Motor Transit but not on routes directly involved in this proceeding support the application for a variety of reasons. Some grounds given are: (1) restoration of applicant's unrestricted authority is considered essential to eliminate inconvenience and difficulties experienced since August 30, 1951, in the conduct of their businesses, (2) applicant is providing the only regular service available and the loss thereof would be injurious, (3) the loss of this service will result in delays and will place shippers at a competitive disadvantage, (4) curtailment or abandonment of Motor Transit service would mean a tremendous loss of business, (5) other carriers' services are not regular or dependable, and (6) many years of dependence upon applicant's service, and the effect the loss of such service would have on their business activities.

There are 45 points of service on the routes of White Line Freight Company, Incorporated, and White Line Trucking Company, applicant's predecessors, hereinafter collectively called the White Line route and 11 such points on the routes of J. H. Frederickson and D. H. Frederickson, doing business as J. H. Frederickson & Son, also applicant's predecessor, hereinafter called the Frederickson Line route, in addition to certain points that are on both routes.

One hundred and one public witnesses, both consignors and consignees, hereinafter collectively called shippers, from points on the White Line route and 10 public witnesses of the same category from points on the Frederickson Line route testified in support of the application. These shippers were from every point on the White Line route, except Silvis, Bettendorf, and Moscow, and from every point on the Frederickson Line route, except Weston, Avoca, and Corley. They ship or receive a variety of commodities in less-than-truckload quantities, and some of them receive shipments in truckload lots. Their testimony relates principally to the former, which prior to August 30, 1951, was handled by applicant in peddle operations in a very satisfactory manner, and since that date in the same manner to the extent that the weight limitations in the temporary authorities issued to applicant permit. Applicant's service on truckloads also has been satisfactory, but admittedly competing motor carriers generally provide prompt service on this type of traffic. In some instances, they have refused to accept truckload shipments of low-rated commodities. In one instance, applicant was the only carrier readily available with proper equipment to transport the commodity. In general the shippers' evidence is to the effect (1) that they had, prior to August 30, 1951, very efficient and dependable peddle service by applicant, which they need in the operation of their various businesses and which to a large extent have been built upon applicant's service, (2) that peddle shipments are not accepted by many motor carriers serving the larger points, (3) that owing to competition the service of applicant is vitally essential as there are no other transportation facilities available that can replace this service, (4) that experience has demonstrated that such service is superior to that provided by other motor carriers, (5) that curtailment of applicant's service would force some shippers to purchase and operate their own equipment, (6) that a few shippers would have to pick up shipments at points from 3 to 10 miles from their places of business, (7) that the existing

weight limitation of 5,000 pounds per shipment is burdensome, (8) that imposition of the supplemental and auxiliary to rail service restriction would result in deterioration of the intrastate services rendered by applicant, (9) that certain opposing carriers' services have been unsatisfactory due to attempted night deliveries, delays, erroneous rate information, and slow payment of claims, and (10) that 11 points on the White Line route would have no motor peddle service if this application is not granted and others would have no scheduled peddle service. Generally these supporters of the application desire a return to the service rendered by Motor Transit prior to the time that the five conditions, designed to insure that its service should be auxiliary or supplemental to the train service of the parent railway, were imposed.

Ten motor carriers oppose the application. Two of them possess authority to serve all points on the White Line route, and one of these also holds authority to serve all points on the Frederickson Line route. Neither has been furnishing any substantial amount of peddle service on less-than-truckload shipments on these routes. Others of these 10 carriers render some peddle service to and from a few points principally to the immediate east of Des Moines, but the record is unconvincing that this service is adequate. Those having interstate authority on U. S. Highway 6 assert that they are anxious to provide peddle service as the traffic warrants. All believe that a grant of authority in this proceeding would be detrimental to their operations principally by depriving them of traffic that they might transport if applicant's operations are subjected to the five conditions previously discussed. These opposing carriers concede that during the approximate 14-year period in which time applicant was operating over the involved routes without restricting its service, the volume of traffic handled by each of these carriers has increased substantially and generally to a greater extent than did the volume transported by applicant.

The examiner recommended that the application be granted. On exceptions the protestant and interveners in opposition allege that the examiner erred (1) in construing the decision in *United States* v. *Rock Island Motor Transit Co.*, *supra*, (2) in stating the purpose of the application, (3) in his interpretation of our policy respecting the imposition of restrictions on operating authorities issued to motor-carrier subsidiaries of railroads, and in finding (4) that the White Line route rights had been operated for several years without complaint that such operations unduly restrained competition, (5) that applicant is the only carrier that for many years has maintained daily scheduled peddle operations over the entire White Line route and Frederickson Line route, (6) that other carriers provide such service only on small segments of these routes, (7) that opposing carriers delivered less-than-truckload freight to applicant for movement to destinations they are authorized to serve, (8) that the supporting witnesses from points in Iowa have built their businesses on applicant's service, particularly with respect to less-than-truckload shipments, (9) that such witnesses deem applicant's service very satisfactory and are not convinced that other motor carriers can or will render the same type of service, (10) that Iowa-Nebraska Transportation Co., Bos Truck Lines, and Des Moines Transportation Company, hereinafter called Iowa-Nebraska, Bos, and Des Moines Transportation, respectively, are the only motor carriers that hold appropriate authority to serve all points or a substantial number of points on the routes directly involved, (11) that there is no serious contention that Bos and Des Moines Transportation are in a position to supplant applicant's operation, (12) that Iowa-Nebraska is the carrier that the opposition advances as being in a position to take over the interstate traffic moving to and from points on the White Line and Frederickson Line routes which applicant would have to relinquish, (13) that Iowa-Nebraska inaugurated certain peddle operations for the purpose of placing the opposing

carriers in a position at the hearing to show that they are endeavoring to provide service, (14) that Iowa-Nebraska does not contemplate inaugurating daily scheduled peddle operations to take the place of each such operation conducted by applicant, (15) that opposing motor carriers did not present one public witness to testify as to adequacy of their service, (16) that applicant has in general, throughout the years, worked for the development and betterment of the motor-carrier industry, (17) that the reluctance of shippers to ship under rail billing is due to the fact that the shipments require longer time in transit, (18) that the operations of applicant have not unduly restrained competition, (19) that the nonparticipation of the railroad in motor-carrier tariffs is due to the policy of the motor carriers refusing to establish joint rates, (20) that the evidence abundantly establishes that public necessity and convenience requires the proposed less-than-truckload peddle operations, (21) that not one of the opposing carriers having the requisite authority has established or offered to establish scheduled peddle operations to replace the type of service rendered by applicant, (22) that with three kinds of traffic available to applicant it could provide better service than those carriers who claim they can take over applicant's interstate motor-billed freight, (23) that the opposing motor carriers cannot obtain intrastate rights, (24) that there is evidence that opposing motor carriers have refused to accept truckloads of low-rated commodities, (25) that the truckload traffic which is "the cream of the traffic" has been handled by applicant for many years without seriously affecting the expansion of its competitors, (26) that opposing motor carriers would be under a public duty to provide the peddle service on interstate motor-billed freight, which traffic alone will not justify the type of service heretofore rendered by applicant, (27) that applicant would still be tendered intrastate-and-rail-billed traffic, which would not warrant continuance of the operations conducted by it prior to August 30, 1951, (28) that

the net result would be injury to the public, (29) that a substantial number of employees of applicant would be dismissed, (30) that the conclusions reached in his report are not an abrogation of the policy established in *Kansas City S. Transport Co., Inc., Com. Car. Application*, 10 M.C.C. 221, 240, decided November 12, 1938, and in concluding (31) that the application should be granted in its entirety.

As noted, protestants and interveners challenge practically every material statement of fact and conclusion reached therefrom, in the report of the examiner. Briefly their position is that the evidence does not establish a public need for the proposed service of applicant other than a supplementary or auxiliary service to the rail service of the Rock Island, and that several of them are able, ready, and willing to provide all the types of service that Motor Transit would have to discontinue under the restrictions we have imposed on applicant's permanent authority. In addition they allege that we have no jurisdiction to grant applicant a certificate without restrictions. This will be discussed later herein.

In general protestant and interveners argue that the grant recommended by the examiner would give applicant an advantage over them by reason of its affiliation with the Rock Island through (1) financial assistance, if necessary, (2) the transportation of rail-billed freight under a contractual agreement with Rock Island, (3) the movement of traffic in merchandise cars and by truck between the same points, (4) the possibility that applicant might solicit traffic to be moved between identical points at either the rail or motor-carrier rates, (5) the ignoring by Rock Island and applicant of tariff provisions regarding packing and loading, (6) the use by applicant of dock and terminal facilities leased from Rock Island, and (7) the removal of the key-point restriction, which would permit eastbound rail-billed traffic to move by truck.

Rock Island has rendered applicant financial assistance, traffic has been moving and would continue to move as indicated in (3) and (7) above, but there is no substantial evidence that these things have during the past several years materially affected the operatinos of the opposing motor carriers. From the past history of Motor Transit's operations there is little reason to believe that future operations would be conducted in any radically different manner from those in the past. The contention in (4) above is a possibility but applicant has not done so in the past. No explanation of (5) above is advanced, but carriers may not legally disregard tariff provisions. Applicant has and would enter into contractual agreements as indicated in (2) and (6) above with Rock Island. The record is vague regarding the terms of such agreements and Rock Island through these agreements could secure transportation of its freight at less than reasonable charges for the service rendered and lease to applicant dock and terminal facilities at rents in excess of their actual value. Therefore, we are of the opinion that any grant of authority herein should be subject to a condition that all contractual agreements between applicant and Rock Island should be reported to us and should be subject to revision if and as we find it to be necessary in order that such agreements shall be fair to the parties and to the public.

The contentions advanced by protestant and interveners on oral argument with respect to the facts are for all practical purposes the same as those set forth in their exceptions. In both their exceptions and on oral argument they insist that we are without statutory authority to grant applicant the type of certificate here sought. They arrive at this conclusion from our policy since the enactment of the Motor Carrier Act, 1935, of generally imposing restrictions on certificates granted to motor carrier subsidiaries of railroads, which restrictions usually have provided, among other things, that the service of the motor carrier shall be supplemental of, or auxiliary to, the service of the railroad.

Such restrictions were first imposed in *Pennsylvania Truck Lines, Inc.—Control—Barker M. Frt.*, 1 M.C.C. 101 and 5 M.C.C. 9 and 49, and *Kansas City S. Transport Co., Inc., Com. Car. Application*, 10 M.C.C. 221, and 28 M.C.C. 5. Opposing carriers concede that section 207 of the Interstate Commerce Act, hereinafter called the act, the section under which this application was filed, does not contain any provisions requiring imposition of restrictions on certificates issued to motor-carrier subsidiaries of railroads, but nevertheless argue that the national transportation policy, congressional intent, and the provisions of section 5(2)(b) of the act governing "Combinations and consolidations of carriers" (formerly section 213 of the Motor Carrier Act, 1935), require that the various forms of transportation be kept distinct so that each can operate in its own sphere independently of the other. It is claimed that these considerations mean that we do not have statutory authority to grant applicant an unrestricted certificate. We do not subscribe to this view. Our statutory authority to impose terms and conditions on a grant of authority under section 207 is derived from section 208 of the act. We have always construed these two sections in the light of the national transportation policy to require, where the circumstances warranted, the imposition of restrictions on certificates issued to motor-carrier subsidiaries of railroads. Where the circumstances did not require such action, we have issued certificates subject to a reservation to impose in the future any limitations, restrictions, or modifications that may appear necessary, and in some instances certificates have been issued without restrictions or even a reservation as just described. These two types of certificates, if protestant's and interveners' theory is sound, would be null and void, because, according to them, we possess no statutory authority to issue certificates to carriers such as applicant unless they are limited to services that are supplemental to, or auxiliary of, the service of a railroad. All certificates of this character have been issued strictly in accordance with the applicable statute.

Protestant and interveners also contend that the decision of the United States Supreme Court in *United States* v. *Rock Island Motor Transit Co., supra*, supports their position that we are without jurisdiction to grant the kind of certificate sought. We find nothing in that decision that warrants such a conclusion. Therein the Court affirmed our power to impose the restrictions hereinbefore quoted. It did not directly or by reasonable implication say that we have no statutory power to issue certificates of the character here considered without restrictions. In our opinion the decision does not require any change in the interpretation heretofore placed on the statute and the national transportation policy. In other words we may issue certificates to motor-carrier affiliates of railroads with or without restrictions as the circumstances may require.

A review of the development of our policy of granting motor-carrier operating authorities to rail affiliates and the applicability of these precedents to this application is set forth in the examiner's report, but is worthy of repetition.

The Motor Carrier Act, 1935, was approved August 12, 1935, and therein Congress declared its policy to be as follows:

to regulate transportation by motor carriers in such manner as to recognize and preserve the inherent advantages of, and foster sound economic conditions in, such transportation and among such carriers in the public interest; promote adequate, economical, and efficient service by motor carriers, * * * improve the relations between, and coordinate transportation by and regulation of, motor carriers and other carriers; develop and preserve a highway transportation system properly adapted to the needs of the commerce of the United States and of the national defense; * * *.

The declaration of policy of Congress in the Transportation Act of 1940, approved September 18, 1940, is worded somewhat differently, but its import is substantially the same as that contained in the foregoing quotation.

Section 213(a)(1) of the Motor Carrier Act permitted a railroad to acquire a motor carrier, provided we find that the acquisition will promote the public interest by enabling the railroad to "use service by motor vehicle to public advantage in its operations," without undue restraint of competition. This section was repealed by the Transportation Act of 1940. The substance thereof was carried into section 5 of the act.

Early in the regulation of the motor-carrier industry, division 5, in *Pennsylvania Truck Lines, Inc.—Control—Barker M. Frt., supra,* said:

> we are not convinced that the way to maintain for the future healthful competition between rail and truck service is to give the railroads free opportunity to go into the kind of truck service which is strictly competitive with, rather than auxiliary to, their rail operations. The language of section 213, * * *, is evidence that Congress was not convinced that this should be done.

These views ripened into a policy in *Kansas City S. Transport Co., Inc., Com. Car. Application, supra,* which was prior to the acquisition by Motor Transit of the White Line and Frederickson Line rights. Therein division 5 imposed 5 conditions or restrictions upon the operating authority granted to a motor-carrier subsidiary of 2 affiliated railways, which in most respects were substantially the same as the conditions and restrictions ultimately imposed and contained in the certificate issued to Motor Transit on September 11, 1951. After that decision, practically all grants of operating authority to motor-carrier subsidiaries of railroads were made subject to like conditions and restrictions or modifications thereof required by the particular circumstances, except in a few instances, such as that here under consideration insofar as the White Line rights are concerned, the certificates contained no provisions limiting the service to that which is auxiliary to, or supplemental of, train service. The approval of the purchase of the White Line rights and the original certificate

covering these rights, as before indicated, were specifically made subject to the condition or reserved right later to impose such restrictions which we might find necessary to insure that the service would be limited to that which is auxiliary to, or supplemental of, train service of the Rock Island.

The main purpose for the policy of imposing the five above-quoted restrictions, or modifications thereof, was to prevent the railroads from acquiring motor operations through affiliates and using them in such a manner as to unduly restrain competition of independently operated motor carriers. This policy was and is sound and should be relaxed only where the circumstances clearly establish (1) that the grant of authority has not resulted and probably will not result in the undue restraint of competition, and (2) that the public interest requires the proposed operation, which the authorized independent motor carriers have not furnished, except where it suited their convenience.

Motor Transit operated the White Line rights in Iowa under claimed "grandfather" rights from April, 1938, to December 31, 1941, and under a certificate from the latter date to February 5, 1945, that contained only the reserved right to impose in the future such conditions that may be necessary to insure that the service shall be auxiliary to, or supplemental of, train service. From February 5, 1945, to the present, Motor Transit has continued the operation by reason of pending proceedings before us or litigation before the courts, or under temporary authority originally issued August 30, 1951, later modified, and subsequently extended to the date of the disposition of this proceeding. Although our policy of imposing the quoted restrictions was established about 3 years prior to the issuance of a certificate to Motor Transit, the certificate of that carrier did not restrict the operation of the White Line rights in any manner. Thus, Motor Transit operated under such

rights for a period of about 7 years without any complaint that its operation was unduly restraining competition or indication that we contemplated exercising the said reserved rights. After we, on our own motion, reopened No. MC-29130 and the 2 related cases for reconsideration, and imposed the above-described 5 restrictions and conditions, the proceedings were reopened for further hearing upon petition of Motor Transit for reconsideration, oral argument, and withdrawal of the report on reconsideration. The attorneys representing Motor Transit at that time did not recognize our jurisdiction to change or modify the orders authorizing the acquisition of Motor Transit's certificates, and they entered a special appearance on applicant's behalf solely for the purpose of filing the petition. At the subsequent further hearing a like appearance was entered for the sole purpose of contesting our jurisdiction. Consequently there was no new or additional evidence before us and, as a result thereof, the only issue was the question whether the reasoning of the prior report on reconsideration and the conclusions reached therein were sound in the face of the criticisms thereof contained in Motor Transit's petition. In the circumstances we had no alternative but to impose the restrictions and conditions established in accordance with the policy enunciated in *Kansas City S. Transport Co., Inc., Com. Car. Application, supra.* This action was considered by the United States District Court for the Northern District of Illinois in a suit initiated by Motor Transit. That court set aside and permanently enjoined enforcement of our order. This decision sustained Motor Transit's position. On appeal, however, the United States Supreme Court reversed the decision of the district court and thereby sustained our views. Thereafter, Motor Transit requested limited temporary authority and filed this application under section 207 of the act for permanent authority. Thus, after the passage of approximately 4 years, Motor Transit concluded to do substantially what it had an opportunity to do in October 1947, namely to introduce additional evidence in the reopened proceedings.

Applicant is the only carrier that for a considerable number of years has maintained daily (generally at least 5 days a week) scheduled peddle operations over the entire White Line and Frederickson Line routes regardless of the volume of traffic available for movement in such operations. Opposing motor carriers with appropriate authority have not provided such a service, except with respect to selected small segments of the routes, principally immediately east of Des Moines. These carriers prior to August 30, 1951, delivered less-than-truckload freight to Motor Transit for movement to destinations they are authorized to serve. Some of this freight consisted of low-rated articles which such carriers deemed unprofitable to handle. These carriers in many instances refused to accept less-than-truckload shipments from their motor-carrier connections, for movement to a destination embraced in their operating authority. As a result thereof, several of these connecting carriers have had to rely upon Motor Transit to accept and make delivery of such shipments, even in cases where the delivering carrier was designated by the shipper. These experiences have convinced some of the connecting carriers that the unrestricted services of Motor Transit should continue to be available to them so that they may have a carrier that is always willing and able to accept interchange shipments destined to points on the White Line and Frederickson Line routes. One motor carrier that possesses rights on U. S. Highway 6 between Davenport and Des Moines, elects to give all of its less-than-truckload freight to Motor Transit for delivery at such points, because it is not profitable for it to provide this service.

Applicant adduced testimony of a great number of public witnesses from practically every point served by Motor Transit on the routes directly involved here and also some located at certain points on its other routes that would be affected by the restrictions and conditions imposed September 11, 1951. The witnesses located at points in Iowa have used the services of Motor Transit over a period of

many years and have, to a considerable extent, built their businesses on that service, particularly with respect to less-than truckload shipments. With that service available, they do not have to maintain large inventories because they can order from the manufacturer or wholesaler at the supply points, such as Chicago, Minneapolis-St. Paul, Omaha, Kansas City, or Moline, early one day and be reasonably certain of delivery on the next day in some instances, and in others not later than the second day. Some of them stressed their need for this service in obtaining expedited movement of repair parts, including those for farm machinery. In general, all of these witnesses, both those directly and indirectly affected, are apprehensive that, if we ultimately require Motor Transit to confine its operations to the transportation of rail-billed freight, their businesses will be adversely affected; as indeed some of them already have been, by the weight limitations imposed in the temporary authorities. Some of the witnesses have not been able to obtain reasonably prompt pickup and delivery of shipments by carriers other than Motor Transit. A few of them could get along without the service of Motor Transit, but they would use it in preference to the service of any other authorized carrier. The great majority of these witnesses support this application because they have received satisfactory service from Motor Transit for a long time, and they are not convinced that any other motor carrier will or can render the type of complete service respecting transportation, claim adjustments, rate and routing information, and tracing of shipments to which they are accustomed. Motor Transit is able to provide such complete service because it maintains freight agents at many points on its routes and the other motor carriers have them located at some of the larger points only.

Of the opposing motor carriers, Iowa-Nebraska, Bos, and Des Moines Transportation are the only ones with interstate authority to serve all points or a substantial number of designated points on the routes directly involved in this

proceeding. Bos has the authority to provide peddle service at all points on U. S. Highway 6 in Iowa. It has been providing such service approximately three times a week from Des Moines to Grinnell and return; and from Des Moines to Anita and return. A few other points on the White Line route are served by over-the-road equipment, through cartage companies, or on a call-and-demand basis. These services are not comparable to the peddle services rendered by Motor Transit. Des Moines Transportation possesses interstate authority to serve only 10 intermediate points on U. S. Highway 6 between the Mississippi River and Omaha. Daily peddle service is provided at 6 of the 10 points. These 6 points are located east of Des Moines. This carrier's authority is insufficient to allow it to replace the interstate service heretofore rendered or presently being rendered by Motor Transit. Recognizing this it says that if necessary it will seek additional authority. Certain other opposing carriers hold authority to serve a few of the points on the routes directly or indirectly involved. There is no serious contention that either Bos or Des Moines Transportation is in a position to supplant Motor Transit operations as rendered prior to August 30, 1951

Iowa-Nebraska is the carrier that the opposition advances as being in a position to take over the interstate traffic moving to and from points on the White Line and Frederickson Lines routes, which Motor Transit would have to relinquish under the conditions and restrictions imposed September 11, 1951. This carrier possesses the required interstate authority to render such service, but over the years it has not been providing any substantial peddle service on these routes. This, no doubt, was attributable to the small amount of this kind of traffic available to this carrier and to some extent probably by the fact that a large part of its business is the transportation of dairy products eastbound to Chicago, Philadelphia, New York City, and Boston. In February 1952, it inaugurated certain peddle operations, and together with the other opposing

line-haul motor carriers and certain other motor carriers discontinued, after August 30, 1951, the transfer of less-than-truckload traffic to Motor Transit for delivery to points on its lines also served by one or more of the opposing carriers. Iowa-Nebraska does not contemplate inaugurating daily scheduled peddle operations to take the place of each such operation conducted by Motor Transit, but says that it will provide this type of service as demanded by the volume of traffic. This clearly is not the kind of service that the supporting witnesses have had available in the past, and their testimony demonstrates that they will not be satisfied with less in the future.

Applicant's operations have been conducted in the same manner as other motor carriers operating in the same area. It has participated in the conferences of such carriers and is a party to their agency tariffs, and in general throughout the years has worked for the development and betterment of the industry as a whole without regard to its being a subsidiary of a railroad. The less-than-carload traffic moving by railroad over a recent 5-year period has consistently declined. During a comparable period the volume of traffic handled by a group of nine motor carriers serving the Midwest area increased substantially. Applicant's tonnage also increased, but not to the extent of its competitors represented by this group of carriers. Thus the operations of applicant have not unduly restrained competition, and there is no evidence that its proposed operations would produce such a result.

The opposing motor carriers take the position that Motor Transit's operations should be restricted, in accordance with our general policy in this type of proceeding, to the transportation of rail-billed freight only. They indirectly imply that Motor Transit could handle freight on this type of billing just as expeditiously as that moving on motor-carrier billing. Theoretically this should be true, but in actual practice the motor-billed freight is handled with greater dispatch; and this is the reason that many of the

public witnesses supporting applicant have refused to deliver their shipments to Rock Island for billing even though the line-haul transportation thereof is performed entirely by Motor Transit. The reluctance of shippers to use this kind of service is clearly due to the fact that it requires longer time in transit. For example, a shipment moving on rail billing from the Twin Cities to Marengo is picked up by the cartage company employed for that purpose by Rock Island and delivered to the Minneapolis or St. Paul rail terminal, worked, billed, and, in 1 or 2 days, turned over to Motor Transit for movement to destination. This shipment would require from 2 to 4 days more in transit than would be necessary if it moved by Motor Transit on motor billing. The situation in the reverse direction would be substantially similar. Motor-billed shipments from Chicago are picked up by Motor Transit and moved out in road-haul equipment the same night, as contrasted with rail-billed shipments which are picked up by a cartage company for Rock Island and moved to Burr Oak, 15 miles, worked, billed, and returned to Chicago for transfer to Motor Transit for transportation to destination, or if it is necessary to move these shipments west from Burr Oak in boxcars owing to the key-point restriction they would not reach Davenport for 2 or 3 days and sometimes longer. Similar delays occur on shipments in boxcars to Des Moines. The delays in handling rail-billed shipments from Chicago are greater than from the Twin Cities. Rail-billed freight is delayed at points in Iowa on account of the method of handling these shipments before they are transferred to Motor Transit for movement. Perhaps these delays are unavoidable, but it seems that some course of action might be undertaken by Rock Island to eliminate or reduce the time of rail-billed shipments in transit.

The evidence abundantly establishes that public convenience and necessity require the proposed less-than-truckload peddle operations. In addition to the testimony of the many public witnesses regarding their need for such serv-

ice, there must be taken into consideration that not one of the opposing motor carriers having the requisite authority has established or offered to establish scheduled peddle operations to replace each such operation conducted by Motor Transit prior to August 30, 1951, and, by refraining from doing so, they no doubt realize that such peddle operations could not be profitably operated with interstate traffic only. The peddle service provided by Motor Transit has been, and to a limited extent, due to the weight limitation, is, based on interstate, intrastate, and rail-billed traffic. With these three kinds of traffic available it is patent that Moter Transit could provide better service to the public than the motor carriers who claim that they can take over Motor Transit's interstate motor-billed business. These carriers hold no intrastate rights on the considered White Line and Frederickson Line routes and cannot obtain such rights because it is the policy of the Iowa State Commerce Commission to grant such rights to only one carrier on a given route. Motor Transit possesses such rights on these routes.

There is some evidence of a public need for the proposed truckload services of applicant, but it is not as convincing as that with respect to the peddle operations, and this is understandable because the other motor carriers operating in the area have usually provided satisfactory service on truckload shipments. There is also some evidence that the latter have refused to accept truckloads of low rated commodities. In any event we feel that there is sufficient basis to warrant a complete grant of authority to applicant. This truckload "cream of the traffic," which to some extent has been handled by Motor Transit for many years without seriously affecting the expansion of its competitors' operations, should not be handed over to its competitors and Motor Transit expected to provide the expensive peddle services.

Acceptance of the opposing motor carriers' position would have the following results. They would be left to

provide the peddle services on interstate motor-billed traffic, which alone will not justify the type of services heretofore rendered by Motor Transit, and all such traffic in truckloads. Motor Transit would be left with intrastate and rail-billed traffic, which will not warrant continuance of the operations conducted by it prior to August 30, 1951. The net result is clearly not in the public interest.

Applicant seeks unrestricted authority and we are satisfied that the grant of authority hereinafter made should be free of restrictions, except the one previously discussed and, in addition, one whereby we shall retain jurisdiction to impose in the future whatever restrictions or conditions, if any, appear necessary in the public interest by reason of material changes in conditions or circumstances surrounding applicant's operations in relation to those of competing motor carriers. Accordingly such a restriction will be imposed.

The application requests, among other things, authority over designated highways between Chicago and Omaha. Applicant presently holds authority between Chicago and Silvis. Consequently, there is no reason for including this segment in the findings herein. The findings will include only the segment of this route between Silvis and Omaha, which authority may be tacked with the present authority between Chicago and Silvis.

The commodity description used in the findings herein authorize the transportation of dangerous explosives, except nitroglycerin. This description it its entirety is the same as that contained in the certificate issued on September 11, 1951.

The authority herein set forth in our findings supersedes and cancels all authority heretofore granted between the same points, more particularly described on "Sheets 2 and 15" of the certificate issued to applicant on September 11, 1951.

The findings hereinafter made are not to be construed as an abrogation of the policy established in *Kansas City S. Transport Co., Inc., Com. Car. Application, supra.* They represent an exception to that policy justified by the evidence in this proceeding. In other words, such findings do not establish a precedent. Each case of this character must be determined upon the facts and circumstances disclosed by the evidence.

FINDINGS

We find that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, of general commodities, except those of unusual value, nitroglycerin, household goods as defined in *Practices of Motor Common Carriers of Household Goods, supra*, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, (1) from Silvis, Ill., to Omaha, Nebr., over Illinois Highway 92 to its junction with U. S. Highway 6, and thence over U. S. Highway 6 to Omaha, and return over same route, serving the intermediate points of East Moline, Moline, and Rock Island, Ill., and Bettendorf, Davenport, Durant, Wilton Junction, Atalissa, West Liberty, Iowa City, Coralville, Tiffin, Homestead, Marengo, Ladora, Victor, Brooklyn, Grinnell, Newton, Colfax, Altoona, De Moines, Dexter, Stuart, Menlo, Casey, Adair, Anita, Wiota, Atlantic, Oakland, and Council Bluffs, Iowa, and the off-route points of Walcott, Muscatine, Stockton, Moscow, Oxford, South Amana, Malcom, Kellogg, Lewis, and Mitchellville, Iowa, (2) from Iowa City, Iowa, to Cedar Rapids, Iowa, over U. S. Highway 218 and return over same route, serving no intermediate points, (3) from Harlan, Iowa, to Omaha, Nebr., over Iowa Highway 64 to Council Bluffs, and thence over U. S. Highway 6 to Omaha, and return over same route, serving the intermediate points of Corley, Minden, Neola, Underwood, and Weston, Iowa, and the off-route

point of Shelby, Iowa, and (4) from Avoca, Iowa, to Atlantic, Iowa, (*a*) over U. S. Highway 59 to Oakland, and thence over U. S. Highway 6 to Atlantic, and (*b*) over Iowa Highway 83 to Atlantic, and return over either route, serving the intermediate points of Hancock, Walnut, and Marne, Iowa, subject to the conditions (1) that there may be attached from time to time to the privileges granted herein such reasonable terms, conditions, and limitations as the public convenience and necessity may require, and (2) that all contractual arrangements between The Rock Island Motor Transit Company and the Chicago, Rock Island and Pacific Railroad Company shall be reported to us and shall be subject to revision, if and as we find it to be necessary in order that such arrangements shall be fair and equitable to the parties; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and our rules and regulations thereunder; that a certificate authorizing such operations should be granted; and that the application in all other respects should be denied.

Upon compliance by applicant with the requirements of sections 215 and 217 of the act, and with our rules and regulations thereunder, an appropriate certificate will be issued.

An appropriate order will be entered.

COMMISSIONER FREAS concurs in the result.

ALLDREDGE *Commissioner*, dissenting:

The majority decision authorizes a railroad subsidiary to enter the motor-carrier field for the purpose of rendering a straight, unrestricted service in the transportation of freight over extensive highway routes, although power is reserved to the Commission to attach to the privileges granted such reasonable terms, conditions, and limitations as the public convenience and necessity may require in the future. The decision so far as its immediate effect is con-

cerned, will thus permit the railroad in question to perform a motortruck service which is not merely complementary to, or supplemental of, its railroad operations, but which is, in many instances at least, directly competitive therewith. The authorized service will be competitive also with independent motor-carrier operations.

It is true, according to the record, that applicant may, and probably will, for time, be in position to render a superior motor-carrier service to that afforded numerous shippers by the regular motor carriers. The deep concern of these shippers for an efficient and reliable transportation service is understandable; but other important considerations must be resolved before an application of this kind may lawfully be granted.

In determining questions of public interest in such proceedings as this the Commission must be guided by the standards prescribed by Congress. Although the majority report apparently rests its ultimate conclusions upon sections 207 and 208 of the Interstate Commerce Act, other provisions of statutory law, including the specially enacted national transportation policy, are involved and should have decisive influence in determining the issues. One of these provisions is section 5(2)(b) of the act. That subsection states, in effect, that where a carrier by railroad, or any person controlled by such a carrier, or affiliated therewith, is an applicant in any proposed transaction involving certain intercarrier relations (which unquestionably includes the transaction here before the Commission) the Commission shall not enter an order of approval "unless it finds that the transaction proposed will be consistent with the public interest and will enable such carrier to use service by motor vehicle to public advantage *in its operations* and will not unduly restrain competition." [Italics supplied.] The Supreme Court, in the *Rock Island* case cited in the majority report, construed this provision of law along with others and then reviewed the practice of the Commission in restricting certificates

issued to railroads or their subsidiaries to conduct motor-truck service so as to keep such service auxiliary or supplemental to railroad operations.

The Court pointed out, at pages 443 and 444 of its opinion, that such restrictions as the Commission had been imposing "hamper railroad companies in the use of their physical facilities—stations, terminals, warehouses—their personnel and their capital in the development of their transportation enterprises to encompass all or as much of motor transportation as the roads may desire." After thus stating the necessary effect of the Commission's customary restrictions, the Court said, "The announced transportation policy of Congress did not permit such development." This means, of course, that Congress has not established a policy of free and unlimited employment of motor carriers by railroads; that restrictions are necessary in order to confine each transport agency to a sphere where it may have an opportunity to develop its own inherent advantages to the fullest possible extent. This established policy of Congress was also discussed, explained, and elucidated by the Supreme Court in another important decision preceding the one in the *Rock Island* case, namely *McLean Trucking Co.* v. *United States*, 321 U. S. 67.

The majority seems to pay some homage to this policy by declaring it to be sound and subject to relaxation "only where the circumstances clearly establish (1) that the grant of authority has not resulted and probably will not result in the undue restraint of competition, and (2) that the public interest requires the proposed operation, which the authorized independent motor carriers have not furnished, except where it suited their convenience." Congress, however, has not provided for any exclusions from its declared policy. That is a prerogative of Congress itself. The Supreme Court did point out in the *Rock Island* case that restrictions might well vary from time to

time; but there is no indication that Congress intended to confer power upon the Commission to issue *carte blanche* authority to a railroad to perform unrestricted motor-carrier service, subject, as here stated, only to such terms, conditions, and limitations as the public convenience and necessity may require in the future. The phrase "public convenience and necessity," in the context in which it is used in the act, does not comprehend the full public interest in transportation envisaged by congressional policy.

There may be a good reason for this policy which goes beyond the protection of different modes of transportation. It may be needed to protect the railroads against themselves. Without restraining influences in the law, it would not be too difficult, for instance, for one railroad, through the purchase of an independent motor-carrier operation, to invade the territory of another railroad without complying with the public-convenience-and-necessity provisions of part I of the act. *Cf. Texas & P. Ry. Co.* v. *Gulf, C. & S. F. Ry. Co.*, 270 U. S. 266.

I cannot agree that a proper balance between the contending interests in the light of congressional policy has been reached by the majority in this proceeding. Some of the restrictions presently contained in applicant's certificates and temporary authorities could well be modified, such as the elimination of certain, but not all, key points and the removal of the quantity restriction on motortruck shipments; but this record does not call for such drastic changes in operating authorities as the majority has approved. Unquestionably, the shippers in this area are entitled to adequate and efficient transportation service. To the extent that such a relaxation of the present restrictions in applicant's operating authorities as I have suggested does not accomplish this objective, then the independent motor carriers should be required to see that the necessary service is furnished. The existing law seems to be adequate for that purpose.

ARPAIA, *Commissioner*, dissenting in part:

In considering the legal and policy questions involved in this application by a railroad affiliate for unrestricted motor-carrier authority, the majority seems to have lost sight of the more elementary question concerning the adequacy of proof of public convenience and necessity. Apparently the majority has been overwhelmed by the quantity of the evidence in this proceeding. In previous cases, we have not allowed ourselves to be persuaded by the number of witnesses or by general statements, but rather have been motivated by the quality of the evidence. See, for example *Hancock-Trucking, Inc., Ext—Gulf and West Coast Routes*, 62 M.C.C. 513, and *T. S. C. Motor Freight Lines Extension—New York*, 62 M.C.C. 499.

A careful analysis of the record is convincing that applicant has failed to prove that public convenience and necessity require its proposed service at any of the routes and points except those on U. S. Highway 6 (the White Line route). Indeed, there is considerable doubt in my mind that applicant has met its burden of proof of need for service along that segment which runs from Iowa City to Cedar Rapids. The only justification for a grant of authority to serve that portion is as a necessary adjunct to the remainder of the White Line route.

With respect to the other authority sought by applicant, the proof does not meet the standard which we have applied heretofore, and I see no reason for deviating from our established requirements.

The majority has concluded that a condition reserving our power to impose restrictions at a later date is necessary. Because of the language used on page 108 of the report in describing the need for reserving that power, I have some doubt as to the efficacy of the condition prescribed. It should be clear and unequivocal. I feel that condition (1) in the findings is neutralized by the language in the discussion insofar as it adds any qualifications to

those set forth in section 208 of the act. To be more specific, the words in the discussion after "public interest," to wit: "by reason of material changes in conditions or circumstances surrounding applicant's operations in relation to those of competing motor carriers," are not only too general and unnecesary, but, to my mind, could be construed to limit our power to attach such subsequent limitations as may be found necessary in the public interest.

APPENDIX D

Corrected Order

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 6th day of July; A. D. 1955

No. MC-29130 (Sub-No. 70)

The Rock Island Motor Transit Company—Common Carrier Application
(Des Moines, Iowa)

No. MC-29130 (Sub-No. 2)

Rock Island Motor Transit Company Extension of Operations—Silvis—Chicago, Ill.

Upon consideration of the records in the above-entitled proceedings, and of:

(1) Petition to Railway Labor Executives' Association, for leave to intervene and for reconsideration, dated February 16, 1955;

(2) Petition of protestant motor carriers, American Trucking Associations, Inc., and the Regular Common Carrier Conference thereof, for reconsideration of the report of the Commission herein, dated February 16, 1955;

(3) Reply (resistance) of applicant and interveners in (2) above;

(4) Petition of applicant and certain interveners for interpretation of present certificate in No. MC-29130 (Sub-No. 2), or in the alternative, for modification of the report of the Commission in the title proceeding, dated May 16, 1955;

(5) Reply of protestant motor carriers, American Trucking Associations, Inc., and the Regular Common Carrier Conference thereof, to (4) above, dated May 26, 1955;

(6) Reply of Railway Labor Executives' Association; to (4) above, dated May 26, 1955;

and good cause appearing therefor:

It Is Ordered, That the Railway Labor Executives' Association be, and it is hereby, permitted to intervene in said proceedings with the right to appear and participate in all further proceedings therein, and that its petition in all other respects be, and it is hereby, denied, for the reason set forth in the next succeeding paragraph;

It Is Further Ordered, That the petition in (2) above be, and it is hereby, denied, for the reason that the evidence adequately justifies the conclusions and findings in the report and order of November 22, 1954;

It Is Further Ordered, That the petition in (4) above be, and it is hereby, denied, for the reason that the relief sought is not waranted.

By the Commission.

(Seal)

Harold D. McCoy,
Secretary.

APPENDIX D

Order

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D. C. on the 9th day of September, A. D., 1955.

No. MC-29130 (Sub-No. 70)

The Rock Island Motor Transit Company Common Carrier Application
(Chicago, Ill.)

Upon consideration of the record in the above-entitled proceeding, and of:

(1) Petition of the Brotherhood of Railroad Trainmen, dated June 30, 1955, for leave to intervene;

(2) Petition of the Brotherhood of Railroad Trainmen, dated June 30, 1955, for reconsideration;

(3) Request of applicant for waiver of Rule 23 and reply to both petitions, filed July 22, 1955;

(4) Petition of the Order of Railway Conductors and Brakemen of America, dated August 17, 1955, for leave to intervene;

and good cause appearing therefor:

It Is Ordered, That said petitioners, the Brotherhood of Railroad Trainmen and the Order of Railway Conductors and Brakemen of America, be, and they are hereby, permitted to intervene in said proceeding with the right to appear and participate in all further proceedings herein;

It Is Further Ordered, That said late-tendered reply of applicant be, and it is hereby, filed;

It Is Further Ordered, That said petition for reconsideration in (2) above be, and it is hereby, denied, for the reason that other petitions seeking like relief were denied on July 6, 1955.

By the Commission.

(Seal)

Harold D. McCoy,
Secretary.

APPENDIX D

Order

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D. C. on the 22nd day of November, A. D., 1954.

No. MC-29130 (Sub. No. 70)

The Rock Island Motor Transit Company Common Carrier Application

Investigation of the matters and things involved in this proceeding having been made, and the Commission, on the date hereof, having made and filed a report herein containing its findings of fact and conclusions thereon, which report is hereby made a part hereof:

It Is Ordered, That said application, except to the extent granted in said report, be, and is hereby, denied.

By the Commission.

(Seal) George W. Laird,
Secretary.

Certificate of Service

I hereby certifiy that I have today served the foregoing jurisdictional statement of the Railway Labor Executives' Association, et al., upon each of the parties and upon the Solicitor General of the United States pursuant to the requirements of Rule 33, by depositing copies of the same in envelopes in a United States Post Office with first-class prepaid, (air mail postage for parties outside of the District of Columbia), addressed to the Solicitor General and to each of the following counsel of record for such parties:

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May 24, 1956

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No. 871

IN THE

Supreme Court of the United States

October Term 1957

RAILWAY LABOR EXECUTIVES' ASSOCIATION, ET AL.,
Appellants,

v.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, ET AL., *Appellees.*

On Appeal From the United States District Court for the District of Columbia

REPLY OF APPELLANTS TO MOTIONS TO AFFIRM

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IN THE

Supreme Court of the United States

October Term 1955

No. 973

RAILWAY LABOR EXECUTIVES' ASSOCIATION, ET AL., *Appellants,*

v.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, ET AL., *Appellees.*

On Appeal From the United States District Court for the District of Columbia

REPLY OF APPELLANTS TO MOTIONS TO AFFIRM

Now come the appellants in the above-entitled cause, the Railway Labor Executives' Association, et al., pursuant to Rule 16(3) of the Revised Rules of this Court to reply to the motions of the appellees, the Interstate Commerce Commission and the Rock Island Motor Transit Company, et al., to affirm the judgment of the District Court.[1]

[1] The motions are also addressed to the appeal of American Trucking Associations, Inc., et al. in Case No. 961. The principal appellee, the United States of America, which was a required statutory defendant in the suit below, has not filed such a motion.

I.

THE COMMISSION'S ORDERS CONSTITUTE AN INVALID ATTEMPT TO REMOVE THE CONDITIONS IMPOSED ON MOTOR TRANSIT'S OPERATIONS PURSUANT TO THE STATUTORY REQUIREMENTS OF SECTION 213 AND SECTION 5(2)(b).

In point 1 of their Jurisdictional Statement the appellants contended that the Interstate Commerce Commission does not have power to remove entirely restrictions on the purchased operating authority of a wholly-owned subsidiary of a railroad imposed in acquisition proceedings in accordance with the statutory requirements of Sections 213 and 5(2)(b) of the Interstate Commerce Act (49 U.S.C. 313 and 5(2)(b)) without regard to such statutory provisions and without determining that the operations as thus unrestricted will enable the parent railroad to use the service by motor vehicle involved to public advantage in its own rail operations. (Jur. Statement, 3, 15-20.) Appellants further argued that the Commission's action in the present case constitutes such an invalid removal of statutory restrictions under the guise of a Section 207 certificate proceeding. (Jur. Statement, 12-20.)

The interventor-appellees, the Rock Island Motor Transit Co., et al., make no effort in their motion for affirmance to answer this contention. The Interstate Commerce Commission in its motion meets this basic issue only by a brief half-hearted answer in a footnote. (Motion of I.C.C., 18, footnote 1.) This failure of the two appellees to deal with appellants' contention, and the equal failure of the District Court in its opinion to deal with the issue, strongly suggests that there is no adequate answer and that the Commission's orders involve a clear effort to evade the statute.

In its footnote the Commission states that the argument of the appellants is merely another way of contending that regardless of the need for transportation, a rail subsidiary may never be authorized to perform motor carrier service which is not auxiliary to and supplemental of the rail service of its parent. This characterization of appellants' argument is obviously erroneous.

The Commission's footnote omits the all important fact that appellants' argument is addressed only to operations acquired subject to Commission approval under Section 213 and Section 5(2)(b) and is applicable whatever may be the interpretation of Section 207 in a bona fide new route case involving a rail subsidiary. Appellants' point is simply that the agency cannot today permit a rail subsidiary to acquire motor carrier routes subject to the limitations of Section 5(2)(b) and tomorrow turn around and remove those limitations without regard to such statutory requirements under the guise of a certificate proceeding. Pursuant to the decision of this Court in *United States* v. *Rock Island Motor Transit Company*, 340 U.S. 419 (1951), the Commission can vary from time to time the specific restrictions imposed upon purchased routes to accomplish the statutory objective, but must at all times ensure that the parent railroad will be using the motor service involved to public advantage in its own rail operations.[2]

---

[2] The District Court pointed out in its opinion that it was agreed that the requirement that the motor service involved be used in the operation of the railroad applicant means that the service must be auxiliary or supplementary to the rail service. (Appellants' Jur. Statement, Appendix B, 11a). Also see *Texas & Pacific M. Transport Co.—Com. Car. App.*, 41 M.C.C. 721 (1943). As this Court observed in *United States* v. *Rock Island Motor Transit Com-*

The Commission does not contend in its motion, nor has it ever argued, that it has power to authorize the acquisition of motor carrier operations of a rail subsidiary without meeting the requirements of the proviso of Section 5(2)(b). It merely argues that it has the power under Section 207 to grant new or additional motor carrier operations to a rail subsidiary without regard to the limitations of that proviso. The issue before the Court then simply boils down to a question of whether the removal of all Section 5(2)(b) and Section 213 limitations previously imposed upon operations of a rail motor carrier subsidiary in acquisition proceedings, constitutes the grant of new or additional operations[3] merely because the application therefor is labelled an application for a certificate under Section 207 rather than a request to reopen the acquisition proceedings. Appellants contend that it clearly does not.

II.

THE NATIONAL TRANSPORTATION POLICY AND THE REQUIREMENTS OF SECTION 5(2)(b) ARE LIMITATIONS ON THE PUBLIC CONVENIENCE AND NECESSITY UNDER SECTION 207.

In point 2 of their Jurisdictional Statement, appellants contended that the National Transportation Policy and the proviso of Section 5(2)(b) are limitations upon the scope of the public convenience and

---

pany, 340 U.S. 419, 442 (1951), the Commission has varied the specific conditions imposed to meet the requirements of the proviso of Section 5(2)(b). However, this leeway does not enable the agency to ignore or wipe out such requirements as it has done in this case where it does not purport to have met them.

[3] The motion of Rock Island Motor Transit Co. et al., p. 4, clearly shows that the operations involved were the same as those already acquired under Sections 213 and 5(2)(b) as does the motion of the Commission, p. 7.

necessity under Section 207 so that in any event the Commission erred in disregarding these limitations in acting on Motor Transit's application.[4] In its motion to affirm the judgment of the District Court, the Commission contends that it has discretion in applying such requirements under Section 207 and that this construction is supported by the language, history, and consistent construction of the statute. (I.C.C. Motion, 10-18.)

The Commission argues that its present construction of Section 207 is supported by the failure of Congress in 1938 to avail itself of the opportunity ~~in 1938~~ to write the proviso of Section 5(2)(b) into Section 207. This opportunity came, says the Commission, in the form of a proposed amendment to Section 207 by Senator Shipstead which was withdrawn to prevent controversy. (I.C.C. Motion, 13.) However, the Commission has failed to inform the Court that Senator Shipstead withdrew his proposed amendment only after statements by Commissioner Eastman that it was the duty of the Commission to apply the restrictive proviso in Section 207 cases and upon the expressed understanding of the Senator that the amendment was unnecessary. These facts are clearly shown by the record of the hearings before the 75th Congress on S. 3606 at pages 26-31, 141.[5] Commissioner Eastman

[4] In their motion to affirm the Rock Island Motor Transit Co. et al., erroneously state (pp. 8, 9) that appellants contend that the Commission is prohibited from issuing motor carrier authority to railroads or their subsidiaries. Appellants have never so contended. Since the intervenor-appellees' legal argument is based on this false premise (pp. 8-11), it is totally irrelevant.

[5] Hearings before a Subcommittee of the Committee on Interstate Commerce of the United States Senate, 75th Congress, on S. 3606.

first indicated that the proposed amendment was merely an expression of existing law: (pp. 27-31)[6]

> "Commissioner Eastman . . . We have indicated that it seems to us consistent with the policy now reflected in section 213(a), paragraph 1; that his amendment should be added to section 207(a).
>
> * * * * * *
>
> "As a matter of fact, I think it could be argued with a great deal of force that in interpreting and applying the provisions of section 207(a) as it now stands, the Commission should read the act as a whole and take cognizance of this policy which is now reflected in section 213(a)(1).
>
> * * * * * *
>
> ". . . If I had to pass on the issue now, I should say that in administering the provisions of section 207, it would be the duty of the Commission to read the act as a whole and to apply the same policy with respect to the extension of operations of a railroad-controlled motor carrier as is provided by the proviso of section 213.
>
> "Senator Johnson of Colorado: Under the present law?
>
> "Commissioner Eastman: Under the present law."

On this basis Senator Shipstead then withdrew his proposal: (page 141)

> "Senator Shipstead: . . . In view of the statement made by Commissioner Eastman for the

[6] The letter of the Commission to the subcommittee stated that "in good logic" it could see no reason why the proof requirements as to a railroad subsidiary should be any different in a certificate proceeding than in an acquisition case. The letter further stated that possibly, reading the act as a whole, it should be so read as it then stood, but since the matter was open to argument, the agency did not object to the amendment. (pp. 31, 31)

Commission as to their view of this matter, and also his personal view, that he thinks the provision of this amendment is already in the law, and that . . .

"Senator Johnson of Colorado (interposing) . . . that is, you mean the Shipstead amendment?

"Senator Shipstead: Yes; that it is already in the law, and evidently he considers it unnecessary at the present time. So, in order to save the time of the sub-committee, and in order to facilitate advancing the Commission's recommendations for amendments to the Motor Carrier Act, I withdraw, for the present at least, the amendment I offered. I think we will stand on the Commission's point of view, and the personal view of Commissioner Eastman."

These statements of Commissioner Eastman and Senator Shipstead show the Commission's argument to be wholly without merit.

The Commission also argues that its present interpretation is consistent with its past administrative practice. (I.C.C. Motion, 12-16.) The short answer to such contention is that this Court has expressly found to the contrary. In *United States* v. *Rock Island Motor Transit Company*, 340 U.S. 419 (1951), the Court stated at page 428:

"Although Section 207, providing for the issuance of certificates of convenience and necessity, has no clause requiring special justification for railroads to receive motor-carrier operating rights, such as appears in the proviso in former Section 213, present Section 5, the Commission applies the rules of the National Transportation Policy so as to read the proviso into Section 207 in order to preserve the inherent advantages of motor-carrier service."

Likewise, the Court in *United States* v. *Texas and Pacific Motor Transport Company,* 340 U.S. 450 (1951), stated as follows: (pp. 458 and 459)

> "This proceeding involves certificates for new routes under Section 207. No such certificates or applications were in that case [i.e., the Rock Island case]. The opinion, however, considered the Commission's practice in Section 207 proceedings and stated that it was the same as in Sections 5 and 213 acquisition proceedings."

These conclusions of the Court leave no room for argument as to what the Commission's past construction of the statute has been.

Finally, the Commission argues that the inclusion in Section 207 of a specific limitation that action thereunder is subject to Section 210 and the omission therefrom of any reference to Section 5(2)(b) presumably means that Congress did not intend that the restrictions of the latter be imported into Section 207. (I.C.C. Motion, 11, 12.) In so arguing the Commission ignores the specific language of the National Transportation Policy that all provisions of the Interstate Commerce Act shall be administered and enforced with a view to carrying out such policy, which, as this Court found in the first *Rock Island* case, the Commission understood required that motor operations of railroads and their affiliates be auxiliary to and supplemental of train service.[7] The Commission has also apparently forgot its argument to the Court in that case and the companion case of *United States* v. *Texas & Pacific Motor Transport Co.,* 340 U.S. 450, found at page 53 of its brief in the latter proceeding:

---

[7] *United States* v. *Rock Island Motor Transit Company,* 340 U.S. 419, 422.

"To be sure, section 207 does not contain a provision like that in section 213 (now sec. 5), imposing restrictions and requiring special findings in instances where the applicants are railroad subsidiaries. * * * nevertheless, the purpose of Congress' transportation policy, declared when enacting the Motor Carrier Act, refute any inference that Congress, while closing the door to railroad suppression of motor carrier competition by means of acquiring through a subsidiary existing motor carrier operations, at the same time left open the unfettered opportunity to do the same thing by means of obtaining through a subsidiary authority to institute new motor carrier operations. So far as opportunity for suppression of competition is concerned, there is little difference, particularly in the motor carrier field, between the opportunity afforded through the control by a railroad of an already existing motor carrier and that afforded by control of one newly created."

CONCLUSION.

For the foregoing reasons, the motions to affirm the judgment of the District Court should be denied.

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July 9, 1956

Certificate of Service

I hereby certify that I have today served the foregoing reply of the appellants in Case No. 973 upon each of the parties and upon the Solicitor General of the United States pursuant to the requirements of Rule 33, by depositing copies of the same in envelopes in a United States Post Office with first-class postage prepaid, (air mail postage for parties outside of the District of Columbia), addressed to the Solicitor General and to each of the counsel for such parties as follows:

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July 9, 1956

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1957

No. 8

RAILWAY LABOR EXECUTIVES' ASSOCIATION, ET AL.,
Appellants,

v.

UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, ET AL.,
Appellees.

On Appeal From the United States District Court for the District of Columbia

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1957

No. 8

RAILWAY LABOR EXECUTIVES' ASSOCIATION, ET AL.,
Appellants,

v.

UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, ET AL.,
Appellees.

On Appeal From the United States District Court for the District of Columbia

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BRIEF FOR APPELLANTS RAILWAY LABOR EXECUTIVES' ASSOCIATION, ET AL.

OPINIONS BELOW

The opinion of the District Court (R. 192-195) is reported at 144 F. Supp. 365. The opinion of the Interstate Commerce Commission (R. 93-121) is reported at 63 M.C.C. 91.

JURISDICTION

The judgment of the District Court was entered on January 27, 1956 (R. 195). Notice of appeal was filed in the District Court by the Railway Labor Executives' Association, *et al.*, on March 26, 1956 (R. 204),

and the appeal in Case No. 8 was docketed in this Court on May 24, 1956. The Interstate Commerce Commission on June 20, 1956, filed a motion to affirm the judgment below and on October 15, 1956, this Court noted probable jurisdiction and consolidated the appeal with Case No. 6 for hearing (R. 204). The jurisdiction of the Court to review the judgment of the District Court by direct appeal is conferred by Sections 1253 and 2101(b) of the Judicial Code [28 U.S.C. 1253 and 2101(b)].

QUESTIONS PRESENTED

This appeal presents these questions:

1. Does the Commission have authority under Section 207(a) of the Interstate Commerce Act to grant a railroad subsidiary unlimited motor carrier operating rights without restriction to services which are auxiliary to or supplemental of the parent railroad's train operations?

2. Assuming, *arguendo,* that the Commission does have the authority stated in question 1; the further question is presented as to whether the Commission has the authority under Section 207(a) to grant a railroad subsidiary unlimited operating rights in circumstances where:

(a) such rights cover the identical basic routes and operations previously acquired by the rail subsidiary from an independent motor carrier with Commission approval subject to restrictions limiting services thereunder to those which are auxiliary to or supplemental of the parent railroad's train service pursuant to the requirement of Section 5(2)(b) of the Interstate Commerce Act; and

(b) the only purpose of the 207 proceeding and effect of the Commission's action therein is to remove the restrictions previously imposed without regard to the statutory requirements under which they were imposed and without finding that the unlimited service thus authorized will enable the parent railroad to use motor vehicles to public advantage in its own train operations.

3. The Court has invited appellants to address themselves to the further question of their standing to sue.

STATUTES INVOLVED

This appeal involves the National Transportation Policy [49 U.S.C., preceding Section 1], Sections 5(2)-(a) and (b), 205(j), 206, 207(a), 208], and former Section 213(a)(1) of the Interstate Commerce Act, as amended [49 U.S.C. 5(2)(a) and (b), 306, 307(a)-(1), 308(a) and 313(a)(1)]. These statutory provisions are set forth in Appendix A hereto.

STATEMENT

The orders of the Interstate Commerce Commission which appellants seek to void granted certificate authority to the Rock Island Motor Transit Company (hereinafter called "Motor Transit", a wholly-owned subsidiary of the Chicago, Rock Island and Pacific Railroad (hereinafter called "Rock Island Railroad")[1] to transport by motor vehicle general commodities, with certain exceptions, between various points in Illinois, Iowa and Nebraska (R. 116, 122). The orders contained no restrictions limiting the trucking operations of Motor Transit to service auxiliary to or supplemental of the parent railroad's train serv-

[1] R. 3, 95.

ice. It is the position of the appellants that such restrictions were required in this case by the Interstate Commerce Act.

It was agreed before the District Court that the statutory requirement that the motor carrier service be used in the operation of the railroad means, in its practical application by the Commission, that such service be auxiliary to or supplemental of the rail operation (R. 193). See also *United States* v. *Rock Island Motor Transit Co.*, 340 U.S. 419, 422, *reh. den.*, 341 U.S. 906.

At the time the Commission orders were issued, Motor Transit already held certificate authority from the Commission to conduct motor carrier operations over the routes in question (R. 3-10, 96). Such authority had been acquired by Motor Transit pursuant to Commission approval under former Section 213 and present Section 5(2)(b) of the Interstate Commerce Act for the company to purchase the operating rights and properties of two independent motor carriers subject to restrictions designed to ensure that Motor Carrier's operation of the purchased routes would be auxiliary to or supplemental of the Rock Island's train service. These acquisitions, from which the Commission removed the restrictions in the orders at issue, were as follows:

(1) The Commission orders under review authorized Motor Transit to operate on an unrestricted basis between Omaha, Nebraska, and Silvis, Illinois, over U. S. Highway 6 and Illinois Highway 92 via certain intermediate points, and to serve Cedar Rapids from Iowa City which is located on U. S. Highway 6 (R. 116). Motor Transit purchased the operating rights for this route from the White Line Motor Freight Company

in 1937.[2] The Commission approved the purchase pursuant to then Section 213 of the Interstate Commerce Act, which required the agency to find, *inter alia*, that the transaction would promote the public interest by enabling the parent Rock Island Railroad to use the proposed motor service to public advantage in the railroad's own operations. *Rock Island M. Transit Co.—Purchase—White Line M. Frt.*, 5 M.C.C. 451 (1938). The Commission made the necessary statutory finding upon the basis of representations by Motor Transit that it would provide a coordinated rail-motor service over the purchased routes and thus improve the parent Rock Island Railroad's service to the public (2d. at p. 455). In addition, in order to comply with the statutory requirement, the Commission required Motor Transit to abandon parts of the White Line purchase not adjacent to the line of the Rock Island Railroad and imposed the following limitations in the certificate issued pursuant to its approval: (a) that Motor Transit should not render service from or to, or interchange traffic at, any point other than a station on the line of the parent railroad; (b) that the operating authority acquired was subject to such further limitations, restrictions, or modifications as the Commission might find necessary to impose or make in order to ensure that the motor trucking operation be auxiliary to or supplemental of the railroad's train service and not unduly restrain competition. Subsequently, the Commission, acting upon its own motion pursuant to the prior reservation of jurisdiction, reopened the proceeding and imposed additional restrictions upon the

[2] The vendor at the time of the acquisition was in process of perfecting the operating rights it sold to Motor Transit under Section 206(a) of the Interstate Commerce Act, 49 U.S.C. 306(a).

operating rights acquired by Motor Transit from the White Line in order to ensure that Motor Transit's operations thereunder were auxiliary to or supplemental of the parent railroad's train service.[3] *Rock Island M. Transit Co.—Purchase—White Line M. Frt.*, 40 M.C.C. 457 (1946); 55 M.C.C. 567 (1949). This Court sustained the validity of the Commission's action. *United States* v. *Rock Island Motor Transit Company*, 340 U.S. 419 (1951), *reh. den.*, 341 U.S. 906.

(2) The orders here involved also granted Motor Transit unrestricted operating rights (a) between Harlan, Iowa, and Omaha, Nebraska, over Iowa High-

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[3] The specific conditions imposed were:

1. The service to be performed by the Rock Island Transit Company shall be limited to service which is auxiliary to, or supplemental of, train service of the Chicago, Rock Island and Pacific Railway Company.

2. The Rock Island Motor Transit Company shall not render any service to, or from or interchange traffic at any point not a station on the rail line of The Chicago, Rock Island and Pacific Railway Company.

3. No shipments shall be transported by The Rock Island Motor Transit Company between any of the following points, or through, or to, or from, more than one of said points: Omaha, Nebraska, Des Moines, Iowa, and collectively Davenport and Bettendorf, Iowa, and Rock Island, Moline, and East Moline, Illinois.

4. All contractual arrangements between The Rock Island Motor Transit Company and The Chicago, Rock Island and Pacific Railway Company shall be reported and shall be subject to revision, if and as it is found to be necessary in order that such arrangements shall be fair and equitable to the parties.

5. Such further specific conditions as the Commission in the future, may find it necessary to impose in order to insure that the service shall be auxiliary to, or supplemental of, train service.

way 64 and U. S. Highway 6, via various intermediate points, and (b) between Avoca, Iowa, and Atlantic, Iowa, over U. S. Highways 59 and 6 and Iowa Highway 83 (R. 117). Motor Transit purchased the operating rights for this route from Messrs. D. H. Frederickson and J. H. Frederickson in 1944. The Commission approved the purchase pursuant to Section 5(2)(b) of the Interstate Commerce Act, which section had replaced Section 213(a)[4] and which also required the Commission to find that the purchase would enable the parent Rock Island to use the trucking rights involved to public advantage in its own operations. *Rock Island Motor Transit—Purchase—Frederickson*, 34 M.C.C. 824 (1944). The Commission in its original order approving the purchase did not make any findings or impose any restrictions to meet this statutory requirement. However, prior to the issuance of a certificate covering the Frederickson rights, the agency reopened the acquisition proceeding as part of its reconsideration of the White Line Purchase, *supra*, p. 6, and in such reconsidered proceedings imposed the same restrictions upon the Frederickson rights as it did upon the White Line rights. This Court also upheld the validity of the Frederickson conditions. *United States* v. *Rock Island Motor Transit Company*, 340 U.S. 419 (1951), *reh. den.*, 341 U.S. 906.

These specific conditions were imposed by the Commission on the White Line and the Frederickson pur-

[4] Section 213 was repealed by the Transportation Act of 1940, 54 Stat. 924, Section 21(e), and its substance was carried forward into Section 5(2)(b) of the Interstate Commerce Act. There is a slight difference in wording in the proviso as found in Section 213(a)(1) and Section 5(2)(b). The Commission has held, however, that this difference is of no significance. *Scott Bros. Inc.—Central—W. G. Corp.*, 37 M.C.C. 225 (1941).

chases because it was clear that contrary to the Motor Transit's original representations to the Commission and to the specific and unambiguous limitations of Section 5(2)(b) of the Interstate Commerce Act the purchased routes had been operated without regard to their relationship to the parent railroad's services. This fact was brought out in the record of the present proceeding in the testimony of Motor Transit's officers that "Although Motor Transit is a subsidiary of Rock Island, it operated prior to September 11, 1951, under permanent authority in substantially the same manner as any independent motor carrier transporting less-than-truckload and truckloads of general freight over practically all of its authorized routes in Iowa" (R. 11). Thus, when this Court sustained the Commission's action in the *Rock Island* case as merely the exercise of a statutory authority to limit motor carrier operations of rail subsidiaries, Motor Transit was at long last faced with the necessity of complying with the statutory requirements it had theretofore ignored. The device hit upon to avoid these statutory requirements was to file an application for the same routes under Section 207 of the Interstate Commerce Act [49 U.S.C. 307] without the restrictions. This advice was given by new counsel hired to handle the matter as shown by the following findings of the Examiner in the record before the Court (R. 74):

> "Thereafter, Motor Transit changed counsel with respect to this matter and he advised Motor Transit to seek limited temporary authority and to file an application under Section 207 of the act for permanent authority."

Motor Transit followed this advice and on October 26, 1951, filed an application, as subsequently amended

(R. 2), for the same routes it already had without the restrictions imposed upon operations over such routes by the Commission's certificate of September 11, 1951 (R. 10).

This application was clearly nothing more than a request to remove the restrictions imposed on its operations in accordance with the requirements of Section 5(2)(b) of the Interstate Commerce Act.

Both the Examiner and the Commission recognized that Motor Transit was in the same legal situation under its application as the carrier was in 1947 during the reopened acquisition proceedings and found that its application was simply the means to give it an opportunity to introduce evidence on the necessity of the specific conditions which it had previously declined to do in the reopened proceedings in favor of a challenge to the Commission's authority. This recognition is evidenced by the following Examiner's finding on the nature of Motor Transit's Section 207 application (R. 74):

> "Thus, after the passage of approximately four years, Motor Transit concluded to do substantially what it had an opportunity to do in October, 1947, namely to introduce additional evidence in the reopened proceeding."

The Commission repeated this finding in *haec verba* (R. 109).

Thus both the Examiner and the Commission recognized what was the obvious fact, *i.e.*, that the proceedings on the new application were merely another phase of the original acquisition proceedings and that the issues before the agency were those with which it was faced in the reopened acquisition case in 1947. There-

fore, Motor Carrier's application should have been processed in accordance with such findings and the requirements of Section 5(2)(b) so that the restrictions should have been removed only if the Commission could validly find, which it obviously could not, that the resulting unrestricted operation would enable the Rock Island Railroad to use Motor Transit's services to public advantage in its own train operations.

However, the Commission closed its eyes to its own findings as to the true nature of the situation and treated the application as if it involved an application under Section 207 for new routes not previously operated by the carrier and on this basis held that it was not legally required to meet the standards of Section 5(2)(b), because the limitations found in that section on the operation of truck routes by railroads or railroad subsidiaries are not found in Section 207 (R. 105). Thus freed in its view of the statutory limitations by this extraordinary gambit, the Commission went on to find that it would not as a matter of policy impose any restrictions designed to keep Motor Transit operations auxiliary to or supplemental of the railroad's train service (R. 105-116). It therefore granted Motor Transit's request solely upon the basis of findings as to the public convenience and necessity (R. 116) and determined to issue to the carrier an unrestricted certificate covering the routes in question which would permit it to conduct an independent trucking operation wholly unrelated to its parent railroad's services.[5]

The Commission did not say what became of its certificate of September 11, 1951, which is still outstanding and which limits Motor Transit's operations over

[5] Two conditions were imposed which in no way limited the scope of operations under the certificate (R. 117).

the routes to those auxiliary to or supplemental of its parent railroad's train service.[6]

On July 6, 1955, and September 9, 1955, the Commission reaffirmed this action and rejected the petitions for reconsideration filed by various motor carriers, which are appellants in Case No. 6, and by the railway labor organizations, appellants in Case No. 8 (R. 122, 137, 161).

Thereafter, the motor carrier protestants, the American Trucking Associations, Inc., *et al.*, filed their complaint in the District Court on June 19, 1956, asking for a permanent injunction against the effectiveness of the Commission's orders (R. 85). The appellants filed motions to intervene in the case as parties-plaintiff and asked for permission to file complaints requesting that the Commission's orders be set aside and enjoined (R. 140, 157). These motions, which were not opposed, were granted by orders of the District Court entered on October 24, 1955, and the complaints of the intervening plaintiffs were filed the same day (R. 171, 172).

The appellants argued to the District Court that the Commission had erred as a matter of law in granting Motor Transit unrestricted operating rights without finding that operations pursuant thereto would enable the parent Rock Island Railroad to use such service by motor vehicle to public advantage in the railroad's own operations (R. 148, 150, 165-167). The District Court rejected this argument on the ground that the

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[6] During the pendency of this latest phase of the *Rock Island* case, Motor Transit has operated over the routes involved under a temporary authority subject to maximum weight limitations and "keypoint" restrictions.

Commission's action involved only the issuance of a certificate under Section 207(a) of the Interstate Commerce Act, which does not in terms require the finding alleged to be necessary (R. 194)[7] The District Court therefore affirmed the Commission's orders against the complaints of the appellants and entered judgment for the Commission and the United States (R. 195).

The District Court's opinion gave no consideration to the fact that the application of Motor Transit to the Commission was in substance a request to remove restrictions from certificates issued to it pursuant to acquisition proceedings under former Section 213 and present Section 5(2)(b) of the Interstate Commerce Act. Nor does such opinion reflect any consideration of the Commission's long established practice of treating applications to the agency by railroads or by railroad subsidiaries for motor carrier operating authority under Section 207(a) of the Interstate Commerce Act as governed by the same basic considerations as applications by such parties made under Section 5(2)(b) of that Act (R. 192-195).

SUMMARY OF ARGUMENT

1. This is th first time to our knowledge when the Commission has urged to this Court that it has the discretion under the Interstate Commerce Act to grant a railroad subsidiary authority to conduct unrestricted motor carrier operations without regard to the limitations expressed in Section 5(2)(b) of the Interstate Commerce Act and contained in the National Trans-

[7] The District Court also dealt with certain contentions of plaintiffs motor carriers, not involved in the complaints of the railway labor organizations, that the evidence before the Commission did not support the agency's findings (R. 194, 195).

portation Policy simply because the applications were filed pursuant to Section 207 of the Act governing the issuance of certificates of public convenience and necessity. By such decision the Commission has reversed a consistent practice to the contrary of over twenty years standing and is taking action which is not only contrary to Congressional intent but is completely incompatible with previous decisions of this Court which have examined and approved the heretofore contrary practice of the Commission. *United States* v. *Rock Island Motor Transit Co.*, 340 U.S. 419 (1951); *United States* v. *Texas & Pacific Motor Transit Co.*, 340 U.S. 450 (1951); *Interstate Commerce Commission* v. *Parker*, 326 U.S. 60 (1945); *American Trucking Assns., Inc.* v. *United States*, 326 U.S. 77 (1945).

2. If the Commission's decision is permitted to stand, the circumstances under which it was rendered in the instant case clearly disclose that the statutory restrictions contained in the proviso to Section 5(2)-(b) of the Interstate Commerce Act will become meaningless. It is undisputed that the only purpose of the application by Rock Island Motor Transit Company under Section 207 was to obtain unrestricted motor carrier operating authority by ridding itself of restrictions and conditions previously imposed upon it by the Commission in acquisition proceedings covering the identical basic routes and operations here involved and subsequently upheld as valid statutory requirements by this Court in *United States* v. *Rock Island Motor Transit Co.* 340 U.S. 419. Hence it is clear that although the application approved by the Commission was in form one for the grant of a new certificate, in substance it was obviously a deliberate evasion of the statutory requirements of Section 5(2)(b).

The Commission's sanction of such a manifest circumvention of Congressional intent is a patent distortion of the statutory purpose with regard to railroad-controlled operations in the motor carrier field. Unless the lower court's affirmance of the Commission's decision is reversed by this Court, a chaotic condition could immediately develop. Under the Commission's decision, every railroad or railroad subsidiary now conducting motor carrier operations acquired by purchase under Section 5(2) of the Act and subject to specific limitations restricting such operations to serve which is auxiliary to or supplemental of the railroad's train operations could, through the mere filing of an application under Section 207, obtain from the Commission a certificate authorizing it to operate over the same routes without restriction.

3. The railway labor appellants have standing to contest the validity of the Commission's orders before the courts. They had a legal interest which entitled them to participate as a party in interest before the Interstate Commerce Commission pursuant to the provisions of Section 205(e) and Section 17(11) of the Interstate Commerce Act, 49 U.S.C. §§ 305(e) and 17(11), and they were permitted to intervene therein by order of the Commission. The stated reason for their intervention was the threat to the security of their jobs and working conditions with the Rock Island Railroad by the removal of previously imposed restrictions which confined the railroad's operations to those integrated with rail service rather than an unrestricted motor service substituting trucks for rail operations. The Commission's grant of appellants' participation as a party in interest was proper. See *Brotherhood of Railroad Trainmen* v. *Baltimore & Ohio Ry. Co.*, 331 U.S. 519.

Appellants were also entitled to test the validity of the Commission's action in the District Court as a matter of legal right. Section 2323 of the Judicial Code, 28 U.S.C.A. § 2323. This section provides that any party in interest to the proceeding before the Interstate Commerce Commission in which an order or requirement is made may appear as a party on his own motion and as of right in any action involving the validity of such Commission order or requirement. The right of appellants to protest the Commission's action in the court below is also clearly established by this Court's decision in *Baltimore & Ohio Ry. Co.* v. *United States*, 264 U.S. 258, 268.

The appellants also clearly have a sufficient interest to appeal the judgment of the District Court to this Court. *Baltimore & Ohio Ry. Co.* v. *United States*, 264 U.S. 258, 268. That appellants are the proper parties to represent the interests of the Rock Island employees has already been recognized by this Court in other actions testing the validity of Commission action. *Interstate Commerce Commission* v. *Railway Labor Executives' Association*, 315 U.S. 373; *Railway Labor Executives' Association* v. *United States*, 339 U.S. 142.

ARGUMENT

I

IN AUTHORIZING THE PERFORMANCE OF MOTOR CARRIER SERVICE BY RAILROADS OR THEIR SUBSIDIARIES PURSUANT TO APPLICATIONS FILED UNDER SECTION 207 OF THE INTERSTATE COMMERCE ACT, THE COMMISSION IS REQUIRED BY STATUTE TO LIMIT THE OPERATIONS TO THOSE WHICH ARE AUXILIARY TO OR SUPPLEMENTAL OF THE APPLICANT'S RAIL SERVICE.

The Commission's determination that the ability of a railroad subsidiary to meet the limitations contained in the proviso to Section 5(2)(b) of the Interstate Commerce Act is not a necessary requirement in the

adjudication of an application of such subsidiary for a certificate of public convenience and necessity under Section 207(a) is contrary to the express policy of the statute, the Commission's past application of that policy, and the legislative history of the statutory provisions.

The National Transportation Policy [49 U.S.C., preceding section 1] requires, *inter alia*, the recognition and preservation of the inherent advantages of each mode of transportation covered by the Interstate Commerce Act. The Commission has found that the achievement of this policy, as applied to motor carrier operations by railroads and railroad subsidiaries, requires the restriction of such operations to those which are auxiliary to or supplemental of the rail service of the railroad involved. *Pennsylvania Truck Lines, Inc.—Control—Barker*, 1 M.C.C. 101 (1936), 5 M.C.C. 9 (1937); *Kansas City Southern Transport Company, Inc.—Com. Car. App.*, 10 M.C.C. 21 (1938). In the present case the Commission takes the position that it need not apply this Congressional purpose because Section 207(a) does not contain the express restrictions contained in the proviso of Section 5(2)(b). However, Congress did not so limit its purpose. The last sentence of the National Transportation Policy states that, "All of the provisions of this Act shall be administered and enforced with a view to carrying out the above declaration of policy." The effect of this language is to require the Commission to carry out the Congressional purpose to the same extent in the administration of Section 207(a) as it does in the administration of Section 5(2)(b). Congress has written limitations into Section 207(a) upon railrload entry into motor carrier service just as plainly and clearly

as if it had inserted into that section the actual words appearing in Section 5(2)(b).

The requirement of a uniform administration of the certificate and acquisition provisions of the Interstate Commerce Act and a correlation of the two has been recognized by the Commission and by the courts. In *Associated Transport, Inc.—Purchase—Russell*, 55 M.C.C. 177 (1948), the Commission declared (p. 183):

> "Although the facts dealt with are dissimilar the same National Transportation Policy applies and the same basic considerations govern, in the disposition of applications under section 5 and section 207 of the Act."

To the same effect is the statement of this Court in *Interstate Commerce Commission* v. *Railway Labor Executives' Association*, 315 U.S. 373, 376, 377 (1942), that the Commission must carry out the purposes of the statute in applying the phrase "public convenience and necessity" to the same extent that it does in acting under Section 5.

Moreover, the Commission has implemented this construction of the statute by its long and consistent uniform application of the auxiliary or supplemental restrictions to cases both under Section 5 and Section 207. In the earlier case involving Motor Transit, *Rock Island Motor Transit Company—Purchase—White Line M. Frt.*, 40 M.C.C. 457 (1946), the Commission reviewed its past application in Section 207 proceedings of the requirements of Section 213 (pp. 461-462). It concluded (p. 468) that Congress, in re-enacting Section 213 into Section 5(2) in 1940, had given its approval of this established administrative practice. Finally, the Commission categorically stated that the

been recognized by this Court as the representative of employees who are members of its constituent organizations in actions testing the validity of Commission action. *Interstate Commerce Commission* v. *Railway Labor Executives' Association*, 315 U.S. 373 (1942); *Railway Labor Executives' Association* v. *United States*, 339 U.S. 142 (1950). It is admitted that members of the Association have agreements with the Rock Island on behalf of the employees of that carrier (R. 147, 174, 186). It is also admitted that the other intervening railway labor organizations before the Commission which are appellants here represent employees of the Rock Island under the Railway Labor Act (R. 163, 177, 189).

The Commission recognized the clear standing of the appellants to participate as parties in the proceedings before the agency upon behalf of the Rock Island's employees and granted their petitions to intervene (R. 122, 151, 161). No issue was raised in the Court below as to the validity of this action.

International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers
International Brotherhood of Electrical Workers
International Brotherhood of Firemen & Oilers
International Organization Masters, Mates & Pilots of America
National Marine Engineers' Beneficial Association
Order of Railway Conductors and Brakemen
The Order of Railroad Telegraphers
Railway Employes' Department, AFL-CIO
Railroad Yardmasters of America
Sheet Metal Workers' International Association
Switchmen's Union of North America

requirements of the National Transportation Policy required the same treatment for railroad or railroad-controlled applicants in Section 207 cases as in Section 5 cases. It said (p. 471):

> "From a regulatory standpoint motor-carrier operations conducted by a railroad affiliate should be the same whether the authority under which they are conducted was acquired by an application under Section 207 or by purchase . . ."

Such Commission application of the requirements of Section 5(2)(b) in Section 207 proceedings has been recognized and approved by this Court in both *United State* v. *Rock Island Motor Transit Co.*, 340 U.S. 419, 450 (1951), and in *United States* v. *Texas and Pacific Motor Transport Co.*, 340 U.S. 450, 459 (1951).

The Commission has argued that its present interpretation is consistent with its past administrative practice. The short answer to such contention is that this Court has expressly found to the contrary. In *United States* v. *Rock Island Motor Transit Company*, 340 U.S. 419 (1951), the Court stated (p. 428):

> "Although Section 207, providing for the issuance of certificates of convenience and necessity, has no clause requiring special justification for railroads to receive motor-carrier operating rights, such as appears in the proviso in former Section 213, present Section 5, the Commission applies the rules of the National Transportation Policy so as to read the proviso into Section 207 in order to preserve the inherent advantages of motor-carrier service."

Also, in *United States* v. *Texas and Pacific Motor Transport Company*, 340 U.S. 450 (1951), the Court observed (pp. 458 and 459):

> "This proceeding involves certificates for new routes under Section 207. No such certificates or applications were in that case [i.e., the Rock Island case]. The opinion, however, considered the Commission's practice in Section 207 proceedings and stated that it was the same as in Sections 5 and 213 acquisition proceedings."

These conclusions of the Court leave no room for argument as to what the Commission's past construction of the statute has been.

The Commission's past practice and interpretation of the statute also received the sanction of this Court in *Interstate Commerce Commission* v. *Parker*, 326 U.S. 60 (1945), which involved an application under Section 207 for extension of motor carrier operating rights by a wholly owned subsidiary of the Pennsylvania Railroad Company. This Court upheld the Commission's action in granting a certificate which was restricted to services truly supplementary or auxiliary to the operations of the parent railroad. The Court reviewed the legislative history of the Motor Carrier Act of 1935 and concluded that railroads may operate trucks "in appropriate places." (pp. 66, 67.) The Court then went on to uphold the validity of the grant of a certificate to the railroad subsidiary and, in so doing, repeatedly emphasized the limited nature of the certificate and the coordinated rail-motor service provided.

In addition, the legislative history of Section 207 supports the conclusion that the standards of Section 5(2)(b) are a legal restriction upon an application of a railroad subsidiary under Section 207. In 1938 Senator Shipstead proposed an amendment to Section 207 which would have specifically written the limitations

B. The Action of the Commission Affected Legal Rights of Rock Island Employees Represented by Appellants Which Entitled Them to Test the Validity of That Action in the District Court.

Shortly after the Commission issued its order of July 6, 1955, denying reconsideration of its action in granting unrestricted operating rights to Motor Transit, the protesting motor carriers filed their complaint in the District Court (R. 85). On September 16, 1955, the appellant Association filed a motion to intervene in the court proceeding as a party plaintiff and for leave to file a complaint (R. 140). This motion alleged that the Association had a legal right to intervene in the case to contest the validity of the Commission's action under Section 2323 of the Judicial Code [28 U.S.C. 2323]; Section 10(a) of the Administrative Procedure Act [5 U.S.C. 1009(a)]; Section 17(11) and 205(g) of the Interstate Commerce Act [49 U.S.C. 17(11) and 305(g)]; and Rule 24 of the Federal Rules of Civil Procedure (R. 142, 143). This claim was unopposed and intervention was granted by the District Court (R. 171). The complaint of the Association, already lodged with the clerk of the Court, was filed pursuant to said order (R. 145, 171). The complaint listed in paragraph 3 thereof the member organizations of the Association (R. 146). It then alleged in paragraph 5 as follows (R. 146, 147):

> "5. Certain of the labor organizations listed in Paragraph No. 2 above, which are members of the Railway Labor Executives' Association, are the duly designated collective bargaining representatives under the Railway Labor Act for most of the employees of the Chicago, Rock Island and Pacific Railroad Company, the parent company of the Rock Island Motor Transit Company, and have agreements with said railroad carrier concerning

of Section 5(2)(b) into Section 207. The proposed amendment was withdrawn after Commissioner Eastman assured Senator Shipstead and the committee considering the amendment that it was the duty of the Commission to apply the restrictive proviso of Section 5(2)(b) in all Section 207 cases, and it was upon this express understanding that the amendment was considered unnecessary. These facts are clearly shown by the record of the hearings before the 75th Congress on S. 3606 at pp. 26-31, 141. Commissioner Eastman first indicated that the proposed amendment was merely an expression of existing law (pp. 27-31):[8]

> "Commissioner Eastman: . . . We have indicated that it seems to us consistent with the policy now reflected in section 213(a), paragraph 1; that his amendment should be added to section 207(a).
>
> * * * * *
>
> "As a matter of fact, I think it could be argued with a great deal of force that in interpreting and applying the provisions of section 207(a) as it now stands, the Commission should read the act as a whole and take cognizance of this policy which is now reflected in section 213(a)(1).
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> * * * * *
>
> ". . . If I had to pass on the issue now, I should say that in administering the provisions of section 207, it would be the duty of the Commission to read the act as a whole and to apply the same pol-

[8] The letter of the Commission to the subcommittee dealing with the amendment stated that "in good logic" it could see no reason why the proof requirements as to a railroad subsidiary should be any different in a certificate proceeding than in an acquisition case. The letter further stated that possibly, reading the Act as a whole, it should be so read as it then stood, but since the matter was open to argument, the agency did not object to the amendment. (pp. 31, 32)

icy with respect to the extension of operations of a railroad-controlled motor carrier as is provided by the proviso of section 213.

"Senator Johnson of Colorado: Under the present law?

"Commissioner Eastman: Under the present law."

On this basis Senator Shipstead then withdrew his proposal (p. 141):

"Senator Shipstead: . . . In view of the statement made by Commissioner Eastman for the Commission as to their view of this matter, and also his personal view, that he thinks the provision of this amendment is already in the law, and that . . .

"Senator Johnson of Colorado (interposing) . . . that is, you mean the Shipstead amendment?

"Senator Shipstead: Yes; that it is already in the law, and evidently he considers it unnecessary at the present time. So, in order to save the time of the sub-committee, and in order to facilitate advancing the Commission's recommendations for amendments to the Motor Carrier Act, I withdraw, for the present at least, the amendment I offered. I think we will stand on the Commission's point of view, and the personal view of Commissioner Eastman."

In presenting this argument in answer to question No. 1 presented for determination by our appeal, we have sought to avoid unnecessary repetition of details on the major points above stated, for the reason that the question is the subject of considerable comment and discussion in the brief (pp. 14-47) filed by appellants in No. 6 of this consolidated appeal.

However, in passing to a discussion of our contentions with respect to question No. 2 presented by this appeal, we should add that nowhere in our view is the need or logic of the statutory construction just discussed better illustrated than under the circumstances of the instant case.

II

THE COMMISSION'S ORDERS CONSTITUTE AN INVALID ATTEMPT TO REMOVE THE CONDITIONS IMPOSED ON MOTOR TRANSIT OPERATIONS PURSUANT TO THE STATUTORY REQUIREMENTS OF SECTION 213 AND SECTION 5(2)(b) OF THE INTERSTATE COMMERCE ACT.

Assuming, *arguendo,* the correctness of the Commission's interpretation of Section 207(a) of the Interstate Commerce Act in an appropriate case involving a new route application, we believe that the Commission's action here results in a clear evasion of the statute and represents a complete sacrifice of substance for form.

This case involves the unique and almost unheard of feature of an applicant seeking a certificate to operate over routes already certificated to it by the same agency. It is doubtful whether the Interstate Commerce Commission or any other agency concerned with granting authorization to engage in transportation has heretofore been confronted with such an application. Ordinarily, such application would be dismissed as a sheer waste of the administrative agency's time. In this case the Commission processed the application just as if it were a bona fide new route application and as if Motor Transit had no connection at all with the routes involved. However, it is clear from the facts that although the application was in form one for the grant of a new certificate under Section 207(a), in

substance it was a request to remove the restrictions previously imposed in acquisition proceedings to make Motor Transit's operations auxiliary to or supplemental of the rail service of its parent, the Rock Island Railroad, in accordance with the requirements of Sections 213 and 5(2)(b). This obvious purpose is stated in the findings of the Commission Examiner as follows (R. 10):

> "The restrictions and conditions set forth above were imposed on the certificate and authorities previously issued or granted, and as a result thereof applicant filed the captioned application for authority under section 207(a) of the act *seeking the identical authority it possessed prior to September 11, 1591, when the restrictions and conditions were imposed. The purpose of this application is to obtain operating authority not subject to restrictions or conditions* that prevent applicant from operating as a motor carrier having no affiliation with a railroad." (Italics supplied).

Since Motor Transit's clear purpose was not the grant of a route, but the removal of restrictions on its certificate for an existing route, it should have filed an application asking for modification of the conditions.

Both the Examiner and the Commission recognized that in substance the proceedings were merely a continuation of the acquisition proceedings when they found that Motor Transit was availing itself of the opportunity it had in the 1947 reopened acquisition case to present evidence on the need for restrictions (R. 74, 109). Having so recognized, the Commission should then have treated the Motor Transit application as a request to remove the existing conditions and measured this request against the standards of Section 5(2)(b) since it is clear that in the 1947 proceedings

Motor Transit could not have obtained a complete removal of the restrictions previously imposed without regard to such standards. The Commission's only area of discretion in that proceeding was to determine which of the restrictions were required to comply with Section 5(2)(b).[9] Motor Transit sought to avoid that result by filing a certificate application purportedly under Section 207, and the Commission sanctioned this

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[9] The Commission clearly recognized its lack of discretion in applying the standards of Section 5(2)(b) to routes acquired by purchase in *Cincinnati, N. & C. Ry. Co.—Control—Lehigh Valley Transit*, 57 M.C.C. 4 (1950), in which it declared (pp. 49 and 52):

> "Applicants further contend that, assuming applicants are affiliate with the railway, it is not necessary that we find that the motor-vehicle service of the carriers of which control would be acquired would be used to public advantage by the railway in its operations, because the literal requirements of the proviso of section 5(2)(b) can be relaxed in order to carry out the declared national transportation policy. * * *
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> * * * *
>
> "Apparently applicants concede that they are unable to submit evidence sufficient to meet the proof requirements of the proviso of section 5(2)(b), the application contains no such evidence, and it is not apparent to us how those requirements can be met in view of the location of the railway, the nature of the service which it renders, and the location of the motor bus carriers which the partnership would indirectly control. We do not agree with the position of applicants that we are empowered to relax the specific requirements of the statute and find that this transaction would be consistent with the public interest, without also finding that the railroad would be enabled to use service by motor vehicle to public advantage in its operation. As stated in E. T. & W. N. C. M. Transportation Co.—Lease—Imperial Transp. Co., Inc., 5 M.C.C. 196: 'Inconvenience of hardships, if any, that result from following the statute as written must be relieved by legislation.'"

obvious evasion of the statute by erroneously treating the application as if it were a bona fide certificate application under such section completely unrelated to the prior acquisition cases and which raised only issues with respect to the public convenience and necessity.

If the Commission may validly do what it has done in this case, the proviso in Section 5(2)(b) becomes meaningless. A substantial portion of all trucking operations now performed in this country by railroads or their subsidiaries are performed over routes acquired subject to the restrictions of Section 5(2)(b), or of its predecessor Section 213, which limit the motor carrier services to those which are auxiliary to or supplemental of the rail services of the railroad involved. Under the Commission's decision here, every railroad in the country which has such an operation may now come in and apply to the Commission for a certificate under Section 207 authorizing it to operate over the same routes without the restrictions imposed by the acquisition provisions of the statute, and the Commission has complete discretion to grant the request without measuring it by the standards of Section 5(2)(b). Indeed, if the Commission has correctly interpreted the statute, railroads may buy out independent motor carriers, accept the restrictions required by Section 5(2)(b), file an application under Section 207 for the same routes without the restrictions before the ink is dry on the certificate, and within a matter of a few months have the restrictions removed.

In closely similar circumstances, another federal agency, the Civil Aeronautics Board, characterized a like request for precisely what it was—a suggestion to the agency to read the applicable statutory requirements out of the Act. In enacting the Civil Aeronau-

ties Act of 1938, Congress showed the same concern for preserving the independence of air transportation from the control by surface transportation as it has in maintaining the independence and inherent advantages of rail and motor carrier operations. It therefore placed in Section 408(b) of the Civil Aeronautics Act [49 U.S.C. 488(b)] the identical restrictions found in Section 5(2)(b) of the Interstate Commerce Act so that any surface carrier or a subsidiary thereof which wishes to acquire an air carrier can do so only if the Civil Aeronautics Board, the administering agency, finds that the transaction proposed "will promote the public interest by enabling such carrier other than an air carrier to use aircraft to public advantage in its operation and will not restrain competition." The Board has applied this restriction in the same manner as has the Interstate Commerce Commission in acquisition cases before it, *i.e.*, it has required a showing that the air carrier operations will be auxiliary to or supplemental of the applicant surface carrier's operations.[19] In the *Parks Investigation Case*, 11 C.A.B. 779 (1950), the Board had before it a wholly-owned subsidiary of a transcontinental bus company as an applicant for a certificate of public convenience and necessity to operate as an air carrier. The Board held that the relationship of the applicant to the transcontinental bus system would have to be acted upon by the Board under Section 408 of the Civil Aeronautics Act in the event the subsidiary should be granted a certificate. The parent bus company and the subsidiary then filed an application with the Board for approval of the transfer to the parent of any certificate

[19] *American Export Airlines, Inc.—American Export Lines—Control—American Export Airlines*, 3 C.A.B. 619 (1942).

which might be issued to the subsidiary in the proceeding. The application was predicated upon the assumption that the Board could transfer the certificate under Section 401(i) of the Civil Aeronautics Act [49 U.S.C. 481(i)] merely on findings of the public interest and that there would then be no necessity for an approval under Section 408 with its strict requirements like those of Section 5(2)(b) of the Interstate Commerce Act. The Board, in refusing to sanction this attempted evasion of the statute, stated (pp. 788, 789):

> "Basically what the applicants are thus asking us to do is to read section 408 out of the Act through the device of a transfer under section 401(i). In so doing they presume that the requirements of section 408, as applied to this case, are merely technical in nature, and that they may be avoided by another technicality. However, such an approach misconstrues the real nature of the problem confronting us in this proceeding. That problem arises out of a clear statutory directive to restrict control of an air carrier by a surface carrier to those instances where the test of the second proviso of section 408 can be met. The courts have applied such directive to the type of situation before us. This mandate is not a mere legal technicality. It represents a substantive declaration of policy which it is our statutory obligation to enforce. We do not believe that it would be consistent with the public interest for us to attempt to avoid this obligation through the device of a transfer under section 401(i) of the Act, which does not eliminate the relationship which Congress intended to restrict. On this ground alone we would not entertain such a proposal."

This action of the Board came before the United States Court of Appeals for the District of Columbia

Circuit in *Continental Southern Lines* v. *Civil Aeronautics Board*, 197 F. 2d 397 (1952), *cert. den.*, 344 U.S. 831, and was sustained by that court. On the point here involved the court stated (197 F. 2d 397 at 403):

> "... *Even if the necessity for actual proceedings under § 408 could be avoided by the device suggested, a result we seriously question*, the transfer could not be approved unless the Board thought it in the public interest. And the concept of 'public interest' for the purposes of a transfer is just as broad as 'public interest' on an original certification proceeding. In both cases, it includes the policies and standards of § 408(b) ..." [Italics supplied]

If the judgment of the court below is sustained, then not only have the Commission and the railroads effectively read Section 5(2)(b) out of the Interstate Commerce Act, but the door has also been opened wide to a similar destruction of the requirements of Section 408(b) of the Civil Aeronautics Act.

The court below, the Commission, and Motor Transit have all been strangely silent on this aspect of the case. Neither the Commission nor Motor Transit made any attempt at all to meet this contention before the District Court although it was briefed and stressed in oral argument. The lower court also practically ignored the point in its opinion and merely answers the argument by the superficial observation (R. 194) that Section 207 does not contain the restrictive language of Section 5(2)(b). This failure to come to grips with the issue strongly suggests that there is no adequate answer and that the Commission's orders involve a clear effort to evade the limitations of the statute. The

Commission at no time has ever asserted that it has the power to authorize the acquisition of motor carrier operations by a rail subsidiary without meeting the requirements of the proviso of Section 5(2)(b). It obviously cannot make such an assertion because the statute gives it no discretion whatsoever with respect to the necessity for a rail applicant to meet the limitations there imposed. This being so, appellants cannot perceive how it is possible under the statute for the Commission to comply with the requirements thereof in an acquisition proceeding and then turn immediately around and nullify the limitations imposed without regard to the requirements of Section 5(2)(b) upon the theory that it is now considering the matter under another section of the statute.

It is submitted that the decision of the court below fails to recognize the real substance of the Commission's action and permits a complete circumvention of the statutory requirements. This Court in *United States* v. *Seatrain Lines*, 329 U.S. 424 (1947), made clear that statutory requirements cannot be evaded by mere words and labels and that it is against the substance of Commission action that the validity of its orders must be measured.

III

THE RAILWAY LABOR APPELLANTS HAVE STANDING TO CONTEST THE VALIDITY OF THE COMMISSION'S ORDERS BEFORE THE COURTS.

In its order of October 8, 1956, noting probable jurisdiction of this appeal, the Court invited counsel to discuss the issue of appellants' standing to sue. We therefore address ourselves to this question. Counsel do not know precisely what the Court may have in mind so that the discussion below may go into unneces-

sary detail or matters with which the Court is not concerned.

A. The Railway Labor Appellants Had a Legal Interest in the Proceedings Before the Commission Which Entitled Them to Participate as a Party Thereto.

Section 205(e) of the Interstate Commerce Act, 49 U.S.C. 305(e), provides generally for the intervention of "interested parties" in proceedings before the Interstate Commerce Commission arising under Part II of that Act in the following language:

> "In accordance with rules provided by the Commission, reasonable notice shall be afforded, in connection with any proceeding under this part, to interested parties and to the board of any State, or to the governor if there be no board, in which the motor-carrier operations involved in the proceeding are or are proposed to be conducted, and opportunity for intervention in any such proceeding for the purpose of making representations to the Commission or for participating in a hearing, if a hearing is held, shall be afforded to all interested parties."

In addition, Section 17(11) of the Interstate Commerce Act, 49 U.S.C. 17(11), specifically provides for the intervention of railroad employees in Commission proceedings as follows:

> "Representatives of employees of a carrier, duly designated as such, may intervene and be heard in any proceeding arising under this act affecting such employees."

Section 205(b) of the Act, 49 U.S.C. 305(b), makes the provisions of Section 17(11) also applicable to proceedings under Part II of the Act. This section gives representatives of employees an absolute right

to participate in and be heard in Commission proceedings which affect such employees. *Brotherhood of Railroad Trainmen* v. *Baltimore & Ohio Ry. Co.*, 331 U.S. 519 (1947).

The employees of the parent Rock Island railroad clearly were "interested parties" to the proceeding before the Commission on Motor Transit's application, and such proceeding equally clearly "affected" them. The proposal of Motor Transit to avoid the limitations imposed upon its operations and to perform a wholly independent trucking service as a substitute for rail service of the parent constituted a threat to their job security. Such proposal was simply an attempt by the Rock Island to meet the competition of independent motor carriers for the transportation of freight in less-than-car-load lots by itself conducting independent trucking operations through its wholly owned subsidiary. Such a course of action directly affects the interests of the parent rail carrier's employees in their jobs because it involves the preservation of business by means other than the maintenance and development of rail service and results in a decline in the volume of such service with a consequent reduction in the number of jobs available to perform it. As the situation stood prior to this case, Motor Transit's permanent certificate limited its operating authority. If the position of the appellants is upheld, Motor Transit will have to continue to operate a completely coordinated rail-truck service instead of unrestricted motor operations.

This interest in preserving rail service against the substitution therefor of truck service by railroads led the employees, through their representatives, to participate in the early proceedings before the Commis-

sion involving the issue of whether the agency should authorize under Section 207 only those trucking operations of railroads or railroad subsidiaries auxiliary to or supplemental of rail service. In these proceedings the appellant Railway Labor Executives' Association was a principal exponent of the principle established by the Commission that trucking operations of railroads should be so limited. *Kansas City S. Transport Co. Inc. Com. Car. Application*, 10 M.C.C. 221 (1938). From time to time railroad employees have participated in other similar Commission proceedings for the same purpose. The employees of the Rock Island did not move to participate at the outset of the present proceeding before the Commission because of their belief that the principles they advocated were so firmly established that there was no necessity to do so. However, when the Commission abandoned those principles by its order of November 22, 1954, these employees through appellants filed petitions to intervene in the proceeding (R. 122, 161). The petition of appellant Railway Labor Executives' Association (hereinafter called the "Association") was filed on February 16, 1955 (R. 122) and separate petitions were filed by the Brotherhood of Railroad Trainmen and the Order of Railway Conductors and Brakemen on June 30, 1955, and August 17, 1955, respectively (R. 161), which were not then, but now are, members of the Association. These petitions to the Commission stated that the petitioners, or in the case of the Association, its constituent organizations, had entered into agreements with the Rock Island Railroad on behalf of the carrier's employees represented by petitioners or the members of the Association concerning rates of pay, rules and working conditions of such employees. The petitions also recited that the working conditions of

the employees would be vitally affected if the Commission's action was finalized:

> "A decision by this Commission removing previously imposed "key point" restrictions on the Railway Company's participation in the motor transport industry by allowing its subsidiary, the applicant Rock Island Motor Transit Company, to operate without such restrictions would vitally affect the work and working conditions of many of the employees of the Railway Company by the reduction of work on that carrier in favor of its subsidiary, the motor transit company."

This allegation set forth the legal interest of the Rock Island's employees in the Commission proceedings.

It is also clear that the appellants were proper parties to represent this interest of the Rock Island's employees. The appellant Association is composed of standard national and international railway labor organizations who are the duly certified representatives under the Railway Labor Act for most of the employees of the Rock Island [11] (R. 140). It has heretofore

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[11] The Association is now composed of the following twenty-two railway labor organizations:

American Railway Supervisors Association
American Train Dispatchers' Association
Brotherhood of Locomotive Firemen and Enginemen
Brotherhood of Maintenance of Way Employes
Brotherhood Railway Carmen of America
Brotherhood of Railroad Signalmen of America
Brotherhood of Railway and Steamship Clerks, Freight Handlers, Expres and Station Employes
Brotherhood of Railroad Trainmen
Brotherhood of Sleeping Car Porters
Hotel & Restaurant Employees and Bartenders International Union
International Association of Machinists

rates of pay, rules and working conditions of such employees. Said agreements confer upon such employees valuable property rights in relation to their employment. By virtue of the foregoing the intervening plaintiffs represent the interests of said employees."

The answers admit these allegations (R. 174, 179, 186). The answers also admit the allegations of paragraph 1 of the complaint that the District Court could entertain the complaint of the Association (R. 174, 179, 186). Paragraphs 9 and 12 of the complaint set forth the following claims of injury to the employees of the Rock Island (R. 148, 150):

"9. The intervening plaintiffs have exhausted their administrative remedies before the Interstate Commerce Commission and the certificate of public convenience and necessity authorized by the report and orders of the Commission on November 22, 1954 and July 6, 1955 will be issued by the Commission and operations performed thereunder to the injury of employees represented by the intervening plaintiffs unless such report and orders are suspended, enjoined, annulled, and set aside, and issuance of a certificate authorized thereunder be enjoined or, if issued, be declared invalid."

* * * *

"INJURY"

"12. The intervening plaintiffs and the employees represented by them are threatened with irreparable injury by the erroneous and unlawful actions of the Interstate Commerce Commission as enumerated in Paragraph No. 10 above, in that they are subject to loss of employment, displacement and other economic detriment if the Commission's orders are allowed to stand."

No finding to the contrary is contained in the opinion of the District Court (R. 192-195).

On October 3, 1953, the Brotherhood of Railroad Trainmen and the Order of Railway Conductors and Brakemen of America filed a joint motion with the District Court to intervene as party plaintiffs in the cause and for leave to file a complaint (R. 157). This motion, which was unopposed, was granted by the District Court (R. 171), and the complaint filed (R. 162). This complaint alleged in paragraph 1 thereof that the Court could entertain the action of the Brotherhoods (R. 163), and in paragraph 5 stated as follows (R. 163):

> "5. Movants are the duly designated collective bargaining representatives under the Railway Labor Act for certain employees of the Chicago, Rock Island and Pacific Railroad Company, the parent company of the Rock Island Motor Transit Company, and have agreements with said railroad carrier concerning rates of pay, rules and working conditions of such employees. Said agreements confer upon such employees valuable property rights in relation to their employment. By virtue of the foregoing the intervening plaintiffs represent the interests of said employees."

These allegations were admitted by the answers of the government (R. 177, 189).[12] The two Brotherhoods also alleged in paragraphs 9 and 12 of the complaint (R. 165, 167) the same injury to the employees of the Rock Island represented by them as was alleged in the complaint of the Association. The District Court did not hold to the contrary (R. 192-195). These allega-

[12] The answer of Motor Transit stood silent on these allegations (R. 183-185).

tions were sufficient to establish a legal right or interest in the Rock Island employees represented by appellants that would be injuriously affected by the Commission's orders.

Appellants submit that their participation in the District Court proceedings was not merely permissive but a matter of legal right as alleged in their motions to intervene (R. 142-144, 159, 160).

Section 2323 of the Judicial Code [28 U.S.C.A. 2323] reads in pertinent part as follows:

> "The Attorney General shall represent the Government in the actions specified in section 2321 of this title and in actions under sections 20, 23, and 43 of Title 49, in the district courts, and in the Supreme Court of the United States upon appeal from the district courts. As amended May 24, 1949, c. 139, § 116, 63 Stat. 105.
>
> "The Interstate Commerce Commission *and any party or parties in interest to the proceeding before the Commision,* in which an order or requirement is made, *may appear as parties of their own motion and as of right,* be represented by their counsel, in any action involving the validity of such order or requirement or any part thereof, and the interest of such party." (Italics supplied).

The District Court case involved the validity of an order of the Commission entered in a proceeding in which the appellants were admitted as a party in interest and clearly affected the interest of the employees of the Rock Island represented by such appellants. Indeed, as this Court stated in *Baltimore & Ohio Railroad Company* v. *United States*, 264 U.S. 258 (p. 268):

> "Moreover, the fact of intervention, allowed as it was, implies a finding by the Commission that

the plaintiffs have an interest. In the proceeding before the Commission, they opposed by evidence and argument the granting of the application. This they did as of right. For under the rules of practice, adopted by the Commission pursuant to paragraph 1 of § 17 of the Interstate Commerce Act, the intervener becomes a party to the proceeding, entitled, like any other party, to appear at the taking of testimony, to produce and cross-examine witnesses, and to be heard in person or by counsel. The intervention must be preceded by an order of the Commission granting leave; and leave can be granted only to one showing interest. *No case has been found in which either this court, or any lower court, has denied to one who was a party to the proceedings before the Commission the right to challenge the order entered therein.* On the other hand, persons who were entitled to become parties before the Commission, but did not do so, have been allowed to maintain such suits where the requisite interest was shown." (Italics supplied)

In addition, Section 17(11) of the Interstate Commerce Act, quoted above, gives an absolute right to appellants not only to participate in the proceedings before the Commission but also in the subsequent court action testing the validity of the Commission's action. *Brotherhood of Railroad Trainmen v. Baltimore & Ohio Railroad Company*, 331 U.S. 519.

The interest of appellants in the Commission's orders as set forth above and the allegations contained in their complaints were sufficient to have justified a separate suit by them against the orders had they so chosen. This Court has held that statutory provisions such as are found in the first paragraph of Section 2323 of the Judicial Code and Section 17(11) of the

Interstate Commerce Act not only provide an absolute right of intervention but authorize persons falling within their scope to institute suits to challenge Commission's orders. *Baltimore & Ohio Railroad Company* v. *United States*, 264 U.S. 258. On this point the Court stated (pp. 267-268):

> "The plaintiffs may challenge the order because they are parties to it. The Judicial Code, § 212 (originally the Commerce Court Act, June 18, 1910, chap. 309, 36 Stat. at L. 542, Comp. Stat. § 1005), declares that any party to a proceeding before the Commission may, as of right, become a party to any suit wherein is involved the validity of such order. The section does not in terms provide that such party may institute a suit to challenge the order. But this is implied. For, otherwise, there would in some cases be no redress for the injury inflicted by an illegal order."

C. Appellants Have an Appealable Interest in the Judgment of the District Court.

The judgment of the District Court (R. 195) affirms the action of the Commission in removing the restrictions from the operations of the Rock Island's subsidiary so that the railroad may provide through that subsidiary a substitute truck service instead of a coordinated rail-truck service. If appellants were not permitted to appeal from such judgment in a proceeding in which they participated as a matter of legal right, then the purpose of Congress in enacting Section 17(11) of the Interstate Commerce Act quoted above would be thwarted. In that section Congress has given representatives of employees a specific right to "be heard" in *any* proceeding arising under the Interstate Commerce Act affecting employees. If that right is dependent upon some other party contesting

the Commission's action or is cut off at the District Court level then the employees have not been heard as Congress intended. See *Baltimore & Ohio Railroad Company* v. *United States*, 264 U. S. 258 at 268, quoted *supra*, p. 40.

Moreover, even if the express statutory provisions did not exist, the employees represented by appellants have a legal interest in the Commission's District Court judgment which entitles them to appeal therefrom. The allegations of their complaints (R. 145-151, 162-168) set forth and discussed above, show that the employees of the Rock Island represented by appellants have a legal right or interest, *i.e.*, their right in their jobs and working conditions arising out of their contracts with that carrier, admitted by the answers to be a "valuable property right," which will be injuriously affected by the Commission's action permitting a substitution of truck service for rail service by the Rock Island contrary to the requirements of statute. This interest, which has not been questioned in the pleadings before the Court, is as equally strong and immediate as that which was recognized as establishing an appealable interest in *National Coal Association, et al.* v. *Federal Power Commission*, 89 U.S. App. D.C. 135, 191 F. 2d 462 (1951). In the cited case the Railway Labor Executives' Association, among others, petitioned the United States Court of Appeals for the District of Columbia to review an order of the Federal Power Commission authorizing the construction and operation of a natural gas pipeline. The Association had intervened and participated as a party to the proceeding before the agency. Its interest was the adverse effect of pipeline competition upon railroads whose employees were represented by its

member railway labor organizations with consequent injury to such employees. This interest was almost identical to that here involved. The right of the Association to seek review of the Commission's order was attacked on the ground that it was too remote and insubstantial. This contention was rejected by the Court of Appeals in the following statement (191 F. 2d 466).[13]

> "We see no reason, and none is suggested to us, for considering the interest of employees in retention of their employment in the competing companies as any less substantial than the interest of competitors in retaining their markets or the prospect of loss of employment any less direct and immediate than the loss of markets with which the competing companies are threatened. The employees of competing companies, as much as the owners thereof, have a sufficiently direct relationship to the subject matter of the Commission's order to be 'aggrieved.'"

The status of appellants is totally unlike the situation involved in *Boston Tow Boat Co.* v. *United States*, 321 U.S. 632, in which the only interest alleged by appellant in the Commission's order was that it might establish an unfavorable precedent, or in *Moffat Tunnel League* v. *United States*, 289 U.S. 113, where suit was brought by an informal group whose only interest as found by the Court was "no more than a sentiment."[14]

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[13] The Court of Appeals subsequently reaffirmed this view in *City of Pittsburgh* v. *Federal Power Commission*, 237 F. 2d 741, 746 (1956).

[14] Nor is the case like that before this Court in *Sprunt* v. *United States*, 281 U.S. 249, in which the appellant did not have a legal right involved and in which the parties with such a right did not

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the judgment of the lower court should be reversed and the Commission's order declared invalid because not in conformity with the statutory requirements of the Interstate Commerce Act.

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August 26, 1957.

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seek review of the lower court action. Here the original plaintiffs are appealing in Case No. 6 and appellants in Case No. 8 have a clear legal right involved.

APPENDIX A

National Transportation Act of 1940 [49 U. S. C. 1 et seq.]

NATIONAL TRANSPORTATION POLICY [49 U. S. C., preceding sections 1, 301, 901 and 1001]

"It is hereby declared to be the national transportation policy of the Congress to provide for fair and impartial regulation of all modes of transportation subject to the provisions of this Act, so administered as to recognize and preserve the inherent advantages of each; to promote safe, adequate, economical, and efficient service and foster sound economic conditions in transportation and among the several carriers; to encourage the establishment and maintenance of reasonable charges for transportation services, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices; to cooperate with the several States and the duly authorized officials thereof; and to encourage fair wages and equitable working conditions;—all to the end of developing, coordinating, and preserving a national transportation system by water, highway, and rail, as well as other means, adequate to meet the needs of the commerce of the United States, of the Postal Service, and of the national defense."

INTERSTATE COMMERCE ACT [49 U. S. C. 1 *et seq.*]

Section 5(2)(a) It shall be lawful, with the approval and authorization of the Commission, as provided in subdivision (b)—

(i) for two or more carriers to consolidate or merge their properties or franchises, or any part thereof, into one corporation for the ownership, management, and operation of the properties theretofore in separate ownership; or for any carrier, or two or more carriers jointly, to purchase, lease or contract to operate the properties, or any part thereof, of another; or for any carrier, or two or more carriers jointly, to

acquire control of another through ownership of its stock or otherwise; or for a person which is not a carrier to acquire control of two or more carriers through ownership of their stock or otherwise; or for a person which is not a carrier and which has control of one or more carriers to acquire control of another carrier through ownership of its stock or otherwise; or

(ii) for a carrier by railroad to acquire trackage rights over, or joint ownership in or joint use of, any railroad line or lines owned or operated by any other such carrier, and terminals incidental thereto.

Section 5(2)(b) Whenever a transaction is proposed under subparagraph (a), the carrier or carriers or person seeking authority therefor shall present an application to the Commission, and thereupon the Commission shall notify the Governor of each State in which any part of the properties of the carriers involved in the proposed transaction is situated, and also such carriers and the applicant or applicants (and, in case carriers by motor vehicle are involved, the persons specified in section 205(e)), and shall afford reasonable opportunity for interested parties to be heard. If the Commission shall consider it necessary in order to determine whether the findings specified below may properly be made, it shall set said application for public hearing; and a public hearing shall be held in all cases where carriers by railroad are involved unless the Commission determines that a public hearing is not necessary in the public interest. If the Commission finds that, subject to such terms and conditions and such modifications as it shall find to be just and reasonable, the proposed transaction is within the scope of subparagraph (a) and will be consistent with the public interest, it shall enter an order approving and authorizing such transaction, upon the terms and conditions, and with the modifications, so found to be just and reasonable: PROVIDED, That if a car-

rier by railroad subject to this part, or any person which is controlled by such a carrier, or affiliated therewith within the meaning of paragraph (6), is an applicant in the case of any such proposed transaction involving a motor carrier, the Commission shall not enter such an order unless it finds that the transaction proposed will be consistent with the public interest and will enable such carrier to use service by motor vehicle to public advantage in its operations and will not unduly restrain competition.

Section 205(g) [49 U. S. C. Section 305(g)] Any final order made under this part shall be subject to the same right of relief in court by any party in interest as is now provided in respect to orders of the Commission made under part I: *Provided*, That, where the Commission, in respect of any matter arising under this part, shall have issued a negative order solely because of a supposed lack of power, any such party in interest may file a bill of complaint with the appropriate District Court of the United States, convened under section 2284 of title 28 of the United States Code, and such court, if it determines that the Commission has such power, may enforce by writ of mandatory injunction the Commission's taking of jurisdiction.

Application for Certificate of Public Convenience and Necessity

Sec. 206 (August 9, 1935, amended June 29, 1938, September 18, 1940, September 1, 1950.) [49 U. S. C. Sec. 306.] (a)(1) Except as otherwise provided in this section and in section 210a, no common carrier by motor vehicle subject to the provisions of this part shall engage in any interstate or foreign operation on any public highway, or within any reservation under the exclusive jurisdiction of the United States, unless there is in force with respect to such carrier a certificate of public convenience and necessity issued by the Commission authorizing such operations: *Provided, however*, That, subject to section 210, if any such carrier

or predecessor in interest was in bona fide operation as a common carrier by motor vehicle on June 1, 1935, over the route or routes or within the territory for which application is made and has so operated since that time, or if engaged in furnishing seasonal service only, was in bona fide operation on June 1, 1935, during the season ordinarily covered by its operation and has so operated since that time, except in either instance as to interruptions of service over which the applicant or its predecessor in interest had no control, the Commission shall issue such certificate without requiring further proof that public convenience and necessity will be served by such operation, and without further proceedings, if application for such certificate is made to the Commission as provided in paragraph (b) of this section and within one hundred and twenty days after this section shall take effect, and if such carrier was registered on June 1, 1935, under any code of fair competition requiring registration, the fact of registration shall be evidence of bona fide operation to be considered in connection with the issuance of such certificate. Otherwise the application for such certificate shall be decided in accordance with the procedure provided for in section 207(a) of this part and such certificate shall be issued or denied accordingly. Pending the determination of any such application the continuance of such operation shall be lawful: *And provided further*, That this paragraph shall not be so construed as to require any such carrier lawfully engaged in operation solely within any State to obtain from the Commission a certificate authorizing the transportation by such carrier of passengers or property in interstate or foreign commerce between places within such State if there be a board in such State having authority to grant or approve such certificates and if such carrier has obtained such certificate from such board. Such transportation shall, however, be otherwise subject to the jurisdiction of the Commission under this part.

Section 207. [*August 9, 1935*] [49 U. S. C., § 307.] (a) Subject to section 210, a certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of this part and the requirements, rules, and regulations of the Commission thereunder, and that the proposed service, to the extent to be authorized by the certificate, is or will be required by the present or future public convenience and necessity; otherwise such application shall be denied: *Provided, however,* That no such certificate shall be issued to any common carrier of passengers by motor vehicle for operations over other than a regular route or routes, and between fixed termini, except as such carrier may be authorized to engage in special or charter operations.

(b) No certificate issued under this part shall confer any proprietary or property rights in the use of the public highways.

Section 208. [*August 9, 1935.*] [49 U. S. C., § 308.] (a) Any certificate issued under section 206 or 207 shall specify the service to be rendered and the routes over which, the fixed termini, if any, between which, and the intermediate and off-route points, if any, at which, and in case of operations not over specified routes or between fixed termini, the territory within which, the motor carrier is authorized to operate; and there shall, at the time of issuance and from time to time thereafter, be attached to the exercise of the privileges granted by the certificate such reasonable terms, conditions, and limitations as the public convenience and necessity may from time to time require, including terms, conditions, and limitations as to the extension of the route or routes of the carrier, and such terms and conditions as are necessary to carry out, with respect to the operations of the carrier, the requirements established by

the Commission under section 204(a)(1) and (6): *Provided, however,* That no terms, conditions, or limitations shall restrict the right of the carrier to add to his or its equipment and facilities over the routes, between the termini, or within the territory specified in the certificate, as the development of the business and the demands of the public shall require.

(b) A common carrier by motor vehicle operating under any such certificate may occasionally deviate from the route over which, and/or the fixed termini between which, it is authorized to operate under the certificate, under such general or special rules and regulations as the Commission may prescribe.

(c) Any common carrier by motor vehicle transporting passengers under a certificate issued under this part may transport in interstate or foreign commerce to any place special or chartered parties under such rules and regulations as the Commission shall have prescribed.

(d) A certificate for the transportation of passengers may include authority to transport in the same vehicle with the passengers, newspapers, baggage of passengers, express, or mail, or to transport baggage of passengers in a separate vehicle.

Section 213(a)(1) [49 U. S. C. Section 313(a)(1)] Whenever a consolidation, merger, purchase, lease, operating contract, or acquisition of control is proposed under this section, the carrier or carriers or the person seeking authority therefor shall present an application to the commission, and thereupon the commission shall, after such notice as is required by section 205(f) and if deemed by it necessary in order to determine whether the findings specified below may properly be made, set said application down for public hearing. If the commission finds that the transaction proposed will be consistent with the public interest and that the conditions of this section have been

or will be fulfilled, it may enter an order approving and authorizing such consolidation, merger, purchase, lease, operating contract, or acquisition of control, upon such terms and conditions as it shall find to be just and reasonable and with such modifications as it may prescribe: *Provided, however,* That if a carrier as defined in section . 3) of Part I, or any person which is controlled by such a carrier or affiliated therewith within the meaning of section 5(8) of this title, is an applicant, the commission shall not enter such an order unless it finds that the transaction proposed will promote the public interest, enabling such carrier to use service by motor vehicle to public advantage in its operations and will not unduly restrain competition.

CERTIFICATE OF SERVICE

I, Edward J. Hickey, Jr., one of the attorneys for appellants herein, and a member of the Bar of the Supreme Court of the United States, hereby certify that on August 26, 1957, I served copies of the foregoing brief on the parties hereto as follows:

1. On the United States, by mailing a copy in a duly addressed envelope, with postage prepaid, to Oliver Gasch, Esq., United States Attorney for the District of Columbia, at Room 3600-A, United States Court House, Washington, D. C., and by mailing a copy in a duly addressed envelope, with postage prepaid, to The Solicitor General, Department of Justice, Washington 25, D. C.

2. On the Interstate Commerce Commission, by mailing a copy in a duly addressed envelope, with postage prepaid, to Robert Ginnane, Esq., its General Counsel, at the offices of the Commission, Washington 25, D. C.

3. On the Rock Island Motor Transit Company, intervening defendant, by mailing a copy in a duly addressed envelope with airmail postage prepaid, to A. B. Howland, Esq., its attorney, at 500 Bankers Trust Building, Des Moines 9, Iowa.

4. On the Employees' Committee of Rock Island Motor Transit Co., Davenport Chamber of Commerce, *et al.*, and Shippers' Committee, intervening defendants, by mailing a copy in a duly addressed envelope with airmail postage prepaid, to D. C. Nolan, Esq., their attorney, at Suite 405 Iowa State Bank Bldg., Iowa City, Iowa.

5. On the National Industrial Traffic League, *amicus curiae*, by mailing a copy in a duly addressed envelope,

with airmail postage prepaid, to John S. Burchmore, Esq., its attorney, at 2106 Field Building, Chicago 3, Illinois.

6. On the American Trucking Associations, Inc., *et al.*, plaintiffs, by mailing a copy in a duly addressed envelope with postage prepaid, to its attorney, Peter T. Beardsley, Esq., 1424 16th Street, N. W., Washington, D. C.

EDWARD J. HICKEY, JR.
620 Tower Building
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Office - Supreme Court, U.S.
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Nos. ~~101 AND 110~~

IN THE

Supreme Court of the United States

OCTOBER TERM, 1956

No. ~~101~~ 6

AMERICAN TRUCKING ASSOCIATIONS, INC., Et Al.,
Appellants,

v.

UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, Et Al.,
Appellees.

No. ~~110~~ 8

RAILWAY LABOR EXECUTIVES' ASSOCIATION, Et Al.,
Appellants,

v.

UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, Et Al.,
Appellees.

On Appeal From The United States District Court For The District of Columbia.

MOTION OF THE NATIONAL INDUSTRIAL TRAFFIC LEAGUE FOR LEAVE TO FILE BRIEF AS AN AMICUS CURIAE

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January, 1957.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1956

No. 101

AMERICAN TRUCKING ASSOCIATIONS, INC., Et Al.,
Appellants,

v.

UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, Et Al.,
Appellees.

No. 110

RAILWAY LABOR EXECUTIVES' ASSOCIATION, Et Al.,
Appellants,

v.

UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, Et Al.,
Appellees.

On Appeal From The United States District Court For The District of Columbia.

MOTION OF THE NATIONAL INDUSTRIAL TRAFFIC LEAGUE FOR LEAVE TO FILE BRIEF AS AN AMICUS CURIAE

Now come John S. Burchmore and Robert N. Burchmore, as counsel for The National Industrial Traffic League, pursuant to paragraph 3 of Rule 42, and move the Court for leave to file a brief as *amicus curiae*.

The League is a nationwide organization of shippers via all forms of transportation, including railroads, motor carriers, water carriers, and air carriers, as well as freight forwarders. The organization is dedicated to the promotion of sound, economic transportation, and its membership generally has a vital interest in the principles and policies of regulation of transportation pursuant to the National Transportation Policy and in the public interest.

The League, on behalf of its membership, as representative of the shipping public, has an interest in the granting of operating rights for highway transportation sufficient to meet the public need for such transportation. Consequently, the League is concerned with the interpretation by the Interstate Commerce Commission and the Courts of those provisions of the Interstate Commerce Act relating to such operating rights.

The Court has noted probable jurisdiction in two appeals that present questions in the determination of which the League believes that the public interest and need are legally significant.

No. 419, *Shaffer Transportation Company, et al.*, v. *United States of America*, presents the question whether the public is entitled to both railroad and motor carrier transportation upon request, or whether in the absence of existing motor carrier service the issuance of operating authority for a proposed motor carrier service may be withheld until the inadequacy of existing railroad service is proven.

In this case, the Commission denied the application for operating rights and the court below dismissed the suit of the applicant motor carrier to set aside the Commission's order. 139 F. Supp. 444. The League requests leave to file a brief as *amicus curiae* in support of appellants, urging particularly the right of the public under the statute to have both railroad and motor carrier modes of transportation authorized.

No. 101, *American Trucking Associations, Inc., et al.*, v. *United States of America, et al.* (Also No. 110, *Railway Labor Executives Association, et al.*, v. *United States of America, et al.*) presents the question whether a grant of new or additional motor carrier operating authority to a carrier that is a subsidiary of a railroad must, as a matter of law, be restricted to service that is auxiliary and supplemental to rail service, regardless of the public need for unrestricted service by such subsidiary.

In this case, the Commission issued an unrestricted certificate to the railroad subsidiary and the court below dismissed the actions of motor carriers and their organizations (and of the railway labor organization) to set aside the Commission's order. The League seeks leave to file a brief as *amicus curiae* in support of the appellees, arguing particularly that the public need for highway transportation should be the paramount consideration in the determination as to what, if any, restrictions should be placed upon highway service by railroad subsidiaries.

Opposing parties refuse consent

Upon application to the parties for consent as a preliminary to this motion, the Interstate Commerce Commission granted written consent to the League in both cases, notwithstanding that the interest of the League is in support of the Commission in No. 101, and opposed to it in

No. 419. Further, written consent was granted in each case by the parties in whose support the League brief would be filed. However, in No. 419, the railroads refuse consent and in No. 101 the American Trucking Associations refuse consent.

Necessity for adequate presentation of the public interest

Except for the United States and Interstate Commerce Commission the parties to these proceedings clearly have an interest in preserving for themselves so far as they can the exclusive opportunity to provide transportation service, whether by railroad or by highway. Neither the railroad interests, on the one hand, nor the motor carriers and their associations, on the other, have any selfish interest in an adequate presentation of the question as to how the statutory provisions must be interpreted in the light of the public interest and need. Broadly speaking, the Interstate Commerce Commission is charged with the duties of regulation in the public interest according to the National Transportation Policy. And the Commission consents to the filing of League briefs in both cases, indicating the belief that an adequate presentation is made more likely by such filing.

The United States also has given its consent in writing to the requested filing.

Wherefore, counsel for The National Industrial Traffic League respectfully urge that leave be granted for the filing of a brief as *amicus curiae*.

Respectfully submitted,

JOHN S. BURCHMORE,
ROBERT N. BURCHMORE,

January, 1957.

Certificate of Service

I, Robert N. Burchmore, attorney for The National Industrial Traffic League, and member of the Bar of the Supreme Court of the United States, hereby certify that on the 31st day of January, 1957, I served copies of the foregoing document upon the several parties thereto, as follows:

1. On the United States of America by mailing a copy in duly addressed envelope with air mail postage prepaid, to the Solicitor General, Department of Justice, Washington 25, D. C.

2. Upon the Interstate Commerce Commission by mailing a copy in a duly addressed envelope with postage prepaid to Robert W. Ginnane, General Counsel, Interstate Commerce Commission, Washington 25, D. C.

3. On the Rock Island Motor Transit Company, Employees' Committee of the Rock Island Motor Transit Company, Traffic Bureaus and/or Chambers of Commerce of Davenport, et al., Shippers' Committee, et al., and Iowa State Commerce Commission, Appellees, by mailing copies in duly addressed envelopes by first class air mail postage prepaid to:

ARTHUR L. WINN, JR., Esq.,
743 Investment Bldg.,
Washington 5, D. C.

ALDEN B. HOWLAND, Esq. and
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500 Bankers Trust Bldg.,
Des Moines 9, Iowa.

D. C. NOLAN, Esq.,
405 Iowa State Bank Bldg.,
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IRVING E. CHENOWETH, Esq., Iowa Commerce Counsel, and CONRAD A. AMEND, Esq., Assistant Iowa Commerce Counsel,
Iowa State Commerce Commission,
E. 12th & Court Ave.,
Des Moines, Iowa.

4. On American Trucking Associations, Inc., by mailing copies in duly addressed envelopes with first class postage prepaid to:

PETER T. BEARDSLEY, Esq., and
FRITZ R. KAHN, Esq.,
1424 Sixteenth St., N.W.,
Washington 6, D. C.

5. On Regular Common Carrier Conference of American Trucking Association, Inc., by mailing copies in duly addressed envelopes with air mail postage prepaid to:

ROLAND RICE, Esq., and
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1111 E. St., N.W.,
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6. On appellant motor carriers, by mailing copies in duly addressed envelopes with first class postage prepaid to:

EUGENE L. COHN, Esq.,
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Des Moines 9, Iowa.

7. On Railway Labor Executives Association, et al., by mailing copies in duly addressed envelopes with air mail postage prepaid to:

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EDWARD J. HICKEY, JR., Esq., and
JAMES L. HIGHSAW, JR., Esq.,
620 Tower Bldg.,
Washington 5, D. C.

ROBERT N. BURCHMORE

JUN 2 5 1957
HAROLD B. WILLEY, Clerk

IN THE

Supreme Court of the United States

OCTOBER TERM, 1957

AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL., *Appellants*,
vs.
UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, *Appellees*.

No. [redacted]

AND

RAILWAY LABOR EXECUTIVES' ASSOCIATION, ET AL., *Appellants*,
vs.
UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, *Appellees*.

No. [redacted]

ROCK ISLAND MOTOR TRANSIT COMPANY, TRAFFIC BUREAUS and/or CHAMBERS OF COMMERCE OF DAVENPORT, IOWA CITY, CEDAR RAPIDS, NEWTON, DES MOINES, ATLANTIC, HARLAN, OTTUMWA AND MASON CITY, IOWA, and ROCK ISLAND MOTOR TRANSIT COMPANY EMPLOYEES COMMITTEE, *Intervenors-Appellees*.

APPEAL FROM UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

MOTION TO AFFIRM

ARTHUR L. WINN, JR., ESQ.,
743 Investment Building, Washington, D. C.

ALDEN B. HOWLAND,
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500 Bankers Trust Bldg., Des Moines 9, Iowa,
Attorneys for Rock Island Motor Transit Company, Intervenor-Appellee.

D. C. NOLAN,
Iowa City, Iowa,
Attorney for Rock Island Motor Transit Company, Traffic Bureaus, and/or Chambers of Commerce of Davenport, Iowa City, Cedar Rapids, Newton, Des Moines, Atlantic, Harlan, Ottumwa and Mason City, Iowa, and Rock Island Motor Transit Company Employees Committee, Intervenor-Appellees.

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The decision of the Commission in the case at bar involves no departure from previous policies or practices. Since the enactment of the Motor Carrier Act, the Commission has consistently ruled that in proper cases, where necessary to secure adequate service, rail carriers may acquire unrestricted motor carrier authority under Section 207 or under Section 5(2)(b) 5

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1955

AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL., *Appellants*,
vs.
UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, ET AL.

No. 961

AND

RAILWAY LABOR EXECUTIVES' ASSOCIATION, ET AL., *Appellants*,
vs.
UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, *Appellees*.

No. 973

APPEAL FROM UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

MOTION TO AFFIRM

Pursuant to Rule 16, paragraph 9(c) of the revised rules of this court, intervenor-appellees, Rock Island Motor Transit Company, Traffic Bureaus and/or Chambers of Commerce of Davenport, Iowa City, Cedar Rapids, Newton, Des Moines, Atlantic, Harlan, Ottumwa and Mason City, Iowa, and Rock Island Motor Transit Company Employees' Committee, move that the judgment of the District Court of the District of Columbia be affirmed, on the ground that it is manifest on the face of the record and the jurisdictional statements that the legal questions on which the decision of the cause depends are so unsubstantial as not to require further argument.

This is a direct appeal from a final judgment entered January 27, 1956, by a three judge district court convened pursuant to 28 USC, Sections 2281 and 2325, which dismissed appellants' complaint to set aside and enjoin an order of the Interstate Commerce Commission. The order of the Commission under attack, dated November 22, 1954 (reconsideration denied July 6, 1955), granted to intervenor Rock Island Motor Transit Company, a certificate of public convenience and necessity authorizing motor carrier service over regular routes extending between Silvis, East Moline, Moline and Rock Island, Illinois, across the state of Iowa, via U. S. Highway 6, and other designated highways to Omaha, Nebraska, and to numerous intermediate and off-route points.

STATEMENT

As shown by appellants' jurisdictional statements this case has an extensive background of proceedings before the Interstate Commerce Commission and the courts. The history prior to September 1951 has no bearing upon the legal questions presented. Appellee-intervenor, Rock Island Motor Transit Company, was authorized by the Commission on April 1, 1938 to acquire all physical assets and existing motor carrier authority of White Line Motor Freight Company, one of the earliest motor carriers operating between Chicago, Illinois and Omaha, Nebraska. Rock Island Motor Transit Company-Purchase-White Line M. Frt., 5MCC451. The Commission made all requisite findings required by Section 213 of the Motor Carrier Act and imposed certain conditions, among them being a reservation of "such further specific conditions as the Commission in the future may find it necessary to impose in order to insure that the service shall be auxiliary to or supplemental of train serv-

ice." On November 28, 1945, in 39MCC821, the Commission authorized Motor Transit to acquire the motor carrier certificate of the Frederickson & Son line in Western Iowa. Without evidence before it as to the effect upon the communities served, the Commission on April 11, 1949, in 55MCC567, having re-opened the White Line and Frederickson cases, restricted both certificates by requiring that shipments be confined to those moving on rail billing, and at rail rates and by imposing so-called "key point restrictions"[1] at Omaha, Nebraska, Des Moines, Iowa, and collectively at Davenport and Bettendorf, Iowa, and Rock Island, Moline and East Moline, Illinois. These restrictions prevented operation of the Transit Company as a motor carrier for transportation of shipments by motor vehicle under motor carrier billing, and thus, by virtue of the restrictions, appellee-intervenor's operations were reduced to rendering a pickup and delivery service for rail shipments between key point stations.

Appellee-intervenor, Rock Island Motor Transit, challenged the power of the Commission to so modify its certificates by an action instituted in the United States District Court for Northern Illinois at Chicago, in which the Commission order was enjoined. This court, by vote of five justices, and with four justices dissenting, sustained the power of the Commission to modify the certificates and impose the key point restrictions in *United States vs. Rock Island Motor Transit Company*, 340 US 419, 71 S. Ct. 382, 95 L. Ed. 391, (rehearing denied, 341 US 906).

Upon the issuance of the mandate of this Court, Motor Transit's suit in the United States District Court for North-

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[1] The key point restrictions were as follows: No shipments shall be transported by Rock Island Motor Transit Company between any of the following points, or through, or to, or from, more than one of said points: Omaha, Nebraska, Des Moines, Iowa, and collectively Davenport and Bettendorf, Iowa and Rock Island, Moline and East Moline, Illinois.

ern Illinois was dismissed. Thereafter, Motor Transit filed an Application for temporary authority to render service over the White Line and Frederickson routes, supported by a large number of affidavits of shippers and receivers of freight at practically all points. The Commission granted temporary restricted authority to continue service over portions of the routes involved. Application for permanent authority over these same routes, under Section 207 (49 USC 307) was filed October 26, 1951. Extensive hearings were held and the testimony of approximately 180 witnesses was taken. The examiner who heard the evidence, filed an exhaustive opinion in which he found that service of Motor Transit Company was the only service available to a large number of intermediate and off-route points, that public convenience and necessity required motor carrier authority, without key point restrictions, and recommended that a certificate issue accordingly. The Commission by its report and order of November 22, 1954, adopted the substance of its Examiner's findings, directed the issuance of a certificate but imposed the following conditions:

> 1. That there be attached from time to time to the privileges granted herein such reasonable terms, conditions and limitations as the public convenience and necessity may require, and
>
> 2. That all contractual arrangements between Motor Transit Company and the Rock Island Railroad be reported to us and shall be subject to revision.

Appellants' jurisdictional statements present but two legal questions for the consideration of this court:

First, by reason of the Transportation Policy and Section 5(2)(b) of The Interstate Commerce Act, the Commission may not grant to any railroad company, or its affiliate,

a certificate authorizing unrestricted motor carrier service, as distinguished from motor transportation of rail billed freight. This they urge is the law even though public convenience and necessity for motor carrier service be shown by overwhelming evidence.

Second, the evidence before the Commission is insufficient to support the findings that public convenience and necessity require operation of appellee-intervenor as a motor carrier between the points, and over the routes, involved.

The District Court disposed of these contentions in an opinion prepared by Circuit Judge Prettyman, in which as to the first contention the court said:

> "Certainly the terms of the requirement as to auxiliary and supplementary service do not appear in Section 207(a). It is equally certain that the policy of the requirement, being a basic policy in the statute, does apply. The difference between a rigid requirement and an applicable policy is one of flexibility and permits the Commission to be governed in exceptional circumstances by the needs of the public convenience and necessity."

With respect to the second question, the court said:

> "We think the position of the Commission is well taken on the evidence. Voluminous testimony was produced. The findings are extensive. The conclusion that the grant appears necessary in the public interest is well founded. Judgment will be rendered for the defendants."

ARGUMENT

The decision of the Commission in the case at bar involves no departure from previous policies or practices. Since the enactment of the Motor Carrier Act, the Commis-

sion has consistently ruled that in proper cases, where necessary to secure adequate service, rail carriers may acquire unrestricted motor carrier authority under Section 207 or under Section 5(2)(b).

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Texas & Pacific Motor Transport Co.—Extension—Point Blue, La.
17 MCC 425
Santa Fe Trail Transportation Co.—Extension—Joplin, Mo.
41 MCC 471
Burlington Truck Line, Inc.—Extension—Iowa—
48 MCC 516
Clinton, Davenport & Muscatine Ry. Co.—Extension—
24 MCC 250
Southern Pacific Co.—Control, Pac. Motor Trucking Co.—Purchase, Lowinel Trucking Co.
60 MCC 373

Appellants, at various points in their jurisdictional statements, urge that the Commission has recognized its lack of power to grant certificates authorizing motor carrier operations to railroad companies, or their subsidiaries. At other points it is charged that in granting the certificate

to appellee-intervenor the Commission has disregarded its own precedents, and that a new policy has been inaugurated with this decision.

Nothing could be further from the fact. Since the enactment of the Motor Carrier Act in 1935, the Commission has had many occasions to consider operations of trucks and passenger buses by railroad companies. In numerous instances applications under Section 207 of the Act have been granted with no restrictions. In others, restrictions have been imposed. The Commission has said in the absence of "unusual circumstances" it will not ordinarily grant to a subsidiary of a railroad, unrestricted motor carrier rights, but it is very significant that "unusual circumstances" have been found to exist in a rather large number of cases. In many of those cases the evidence of public need was not so strong as in the case at bar.

In one of the earliest decisions rendered under the Motor Carrier Act in *St. Andrews Bay Transportation Co.—Extension*—3 MCC 711, the Commission pointed out that the provisions of Section 213 of the Act (now embraced in Section 5(2)(b)) requiring a finding that operation of a motor carrier by a railroad would not unduly restrain competition had no application to a proceeding under Section 207 of the Act.

In *Rock Island Motor Transit Co.—Extension Wellman, Iowa*, 31 MCC 643, appellee-intervenor applied for a certificate authorizing service between Iowa City, Kalona and Wellman, Iowa. Division 5 imposed restrictions limiting the service to be performed to movement of shipments on rail billing and at rail rates. The entire Commission removed this restriction and granted unlimited motor carrier authority.

In MCF 5573, *Southern Pacific Co.—Purchase—Lowinel*

Trucking Co.—60 MCC 373, Division 1 of the Commission said:

> "Under the circumstances here involved we are of the opinion that an exception to the principles discussed in Rock Island Motor Transit Co.—Purchase—White Line M. Frt., 40 MCC 457, is warranted, and that the service to be rendered by vendee under the unified duplicate operating rights should not be limited solely to the transportation of freight in the service auxiliary to or supplemental with train service. Our findings accordingly will not be restricted."

Quotations from numerous decisions by the Commission might be supplied at this point. To do so would unduly extend this argument. In each of the cases cited above unrestricted motor carrier authority was granted to a railroad, or a rail carrier subsidiary. Some of the cases cited arose under Section 5(2)(b) and others under Section 207. The policy of the Commission has consistently been based on the facts of particular cases and the needs of the territory served.

Neither the National Transportation Policy nor Section 5(2)(b) of the Act prohibit the Commission from issuing certificates of public convenience and necessity for motor carrier operations, merely because the applicant therefor is affiliated with a railroad.

United States of America, et al, Rock Island Motor Transit Co., et al, 340 US 119, 95 L. Ed. 391, 71 S. Ct. 382.

Interstate Commerce Commission v. Parker, et al, 326 US 60, 89 L. Ed. 2051.

Baldly stated, appellants contend that various provisions of the Act, when read together, prohibit the Commission from issuing motor carrier authority to railroad companies,

or persons controlled by railroads. They advance this contention in the face of express provisions of Section 5(2)(b) which specifically empower the Commission to authorize railroads to acquire *motor carriers* if certain requisite findings be made. In other words, it is the position of appellants that Congress has prohibited that which the Act expressly says may be done under certain conditions.

First, it is to be noted that the proviso of Section 5(2)(b) relates only to railroad acquisition of *existing* motor carriers. This provision was clearly designated as a safeguard against monopoly. The fear had been expressed that railroads might buy up truck lines and thus obtain a monopoly in the transportation field. The evidence in the case at bar shows that no monopoly exists or is threatened by the operations of appellee-intervenor.

Second, the construction of Sections 207 and 5(2)(b) for which appellants contend would defeat the obvious Congressional intent. Congress has expressly authorized railroad companies to acquire *motor carriers* if the findings specified in 5(2)(b) are made by the Commission. Appellants' contention is that the statute should be construed as authorizing a railroad to acquire only the vehicles used by a motor carrier and use them in its operation as a railroad. The language of 5(2)(b) negatives any such Congressional intent. It is motor carriers which may be acquired. Nothing in the Act supports such a tortured construction of the Act.

Third, the language of Section 207 is plain and unambiguous and expressly authorizes the issuance of a certificate to any qualified person when the requisite findings of public convenience and necessity, and fitness of the applicant, are made by the Commission. The statute requires no resort to extraneous matters to determine the legislative intent.

Fourth, nothing contained in the National Transportation Policy negatives the power of the Commission to grant to a railroad, or person affiliated with a railroad, authority to operate as a motor carrier. The National Transportation Policy is not concerned with the ownership of the facilities of commerce, but with service to the public, and the development of transportation to attain the objectives set forth. Nothing in the National Transportation Policy indicates any Congressional purpose to prohibit railroads from operating trucks as motor carriers, and there is no intimation that Congress was interested in restricting the development of truck transportation by railroads.

Fifth, this court, in at least two cases, has clearly indicated that the contentions of appellants here find no support in the provisions of the Act, or the National Transportation Policy. In *U. S. A. v. R. I. M. T. Co., et al*, 340 US 119, 95 L. Ed. 391, Mr. Justice Reed, speaking for this court, said:

> "At present a motor service is auxiliary and supplemental to rail service, in the Commission's view, when the railroad affiliated motor carrier in a subordinate capacity aids the railroad in its rail operations by enabling the railroad to give better service or operate more cheaply rather than independently competing with other motor carriers. Undoubtedly, the Commission has not consistently required each rail affiliated motor carrier to foregoing motor billings or tariffs. Key points to break traffic are relatively new. 28 M.C.C. 5. Rail affiliates have been permitted to leave the line of the railroad to serve communities without other transportation service. Those divergencies, however, are an exercise of the discretionary and supervisory power with which Congress has endowed the Commission. It is because Congress could not deal with the multitudinous and variable situations that arise that the Commission was given authority to adjust services within the limits of the Motor Carrier Act, Sec. 208."

Also in *Interstate Commerce Commission v. Parker*, 326 US 60, 89 L. Ed. 2051, it appeared that the Commission had granted a restri certificate to a subsidiary of Pennsylvania R. R. C authorizing over the road truck movement for shipments moving on rail billing, and at rail rates. A three judge district court annulled the order of the Commission because there were existing motor carriers serving the territory who were ready, willing and able to perform transportation of such rail billed freight. This court reversed the three judge district court and said:

> "The National Transportation Policy has recently been authoritatively summarized by Congress. That declaration requires administration so as to preserve the inherent advantages of each method of transportation and to promote 'safe, adequate, economical and efficient service.' Such broad generalizations, while well expressing the Congressional purpose, must frequently produce overlapping aims. In such situations, the solution lies in the balancing by the Commission of the public interests in the different types of carriers with due regard to the declared purposes of Congress."

After discussing the discretion vested in the Commission to regulate various types of transportation this court went on to say:

> "The alternative to the existence of this discretion is that the language of the Interstate Commerce Act, part II, forbids the granting to railroads of a certificate of convenience and necessity for the operation of motor trucks, under specially limited certificates, when there are certificated motor carriers, independent of railroad authority or supervision, with whom arrangements for the service might be made by the rail carriers. There is no such prohibition in terms. Any such implication is negated by the discretion to grant certificates conferred on the Commission by the Act."

The finding of the Commission that public convenience and necessity require the authority granted is supported by substantial evidence and is to be accepted by the courts.

U. S. A. v. Pierce Auto Freight Lines, 327 US 515, 90 L. Ed. 121
Interstate Commerce Comm. v. Parker, 326 US 60, 89 L. Ed. 2051
U. S. A. v. Pennsylvania R. R. Co., 323 US 612, 89 L. Ed. 409
McLean Trucking Co. v. U. S. A., 321 US 67, 88 L. Ed. 544

Appellants' jurisdictional statements do not challenge the finding of the Commission that appellee-intervenor, Rock Island Motor Transit Company, is the only carrier rendering a regular transportation service to a host of intermediate and off-route points in Iowa. Before the court below appellants argued that the evidence was insufficient to support the Commission's findings that public convenience and necessity required the service of Rock Island Motor Transit Company. They have apparently shifted their position and now urge that, while there is evidence sufficient to support a finding of public convenience and necessity as to the small intermediate communities, there is insufficient evidence that such service is required at the larger centers of population such as Davenport and Bettendorf, Iowa, Rock Island, Moline, East Moline, Illinois, Des Moines, Cedar Rapids, Council Bluffs, Iowa and Omaha, Nebraska.

Motor Transit holds the only outstanding intrastate certificates authorizing service on the White Line and Frederickson routes, and transports rail shipments on rail billing for its parent company. For more than twenty years appellee-intervenor and its predecessors in title and interest have been performing a dependable interstate motor carrier service to all communities on its routes, large and small. The Commission pointed out in its report and order

that by combining intrastate and rail traffic with interstate shipments intervenor was in much better position to continue to perform "peddler" service to the small intermediate and off-route communities than were the appellants here, that such service involved a high percentage of truck mileage with practically empty vehicles, and was expensive to maintain. The Commission concluded that any restriction upon the ability of Motor Transit to continue this character of service was not in the public interest because protesting motor carriers would be unable to provide comparable service for interstate traffic alone. Motor Transit would be left to handle all intrastate and rail billed traffic, the volume of which would not warrant continuance of its present service to the smaller intermediate communities. We submit the conclusion of the Commission is supported by substantial evidence, and the court below properly held that

> "The conclusion that the grant appears necessary in the public interest is well founded."

The question as to the extent of the authority to be granted to Rock Island Motor Transit Company was within the discretion of the Commission with which the courts are in no manner concerned.

CONCLUSION

The decision of the Commission in this case is in strict accord with prior decisions and policies which the Commission has followed since the enactment of the Motor Carrier Act. Neither the National Transportation Policy nor the provisions of Section 5(2)(b) of the Act, restrict the power of the Commission to authorize certificates for the performance of motor carrier service which it has found pub-

lic convenience and necessity require. The construction of Section 5(2)(b), for which appellants contend, is contrary to the Congressional intent.

The sufficiency of the evidence to support the Commission's findings is clearly within the orbit of Commission discretion. We, therefore, say it is manifest on the face of the record and the jurisdictional statements that the legal questions presented are so unsubstantial as not to require further argument. The judgment below should be affirmed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have today served the foregoing "Motion to Affirm" of Rock Island Motor Transit Company, et al, upon each of the parties and upon the Solicitor General of the United States, pursuant to the requirements of Rule 33, by depositing copies of the same in envelopes in the United States Post Office at Des Moines, Iowa, with

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~~Nos. 961 and 973~~

In the Supreme Court of the United States

OCTOBER TERM, 1955

No. [redacted] 107

AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL.,
APPELLANTS

v.

UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, ET AL., APPELLEES

No. [redacted] 110

RAILWAY LABOR EXECUTIVES ASSOCIATION, ET AL.,
APPELLANTS

v.

UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, ET AL., APPELLEES

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

MOTION BY THE INTERSTATE COMMERCE COMMISSION TO AFFIRM.

ROBERT W. GINNANE,
General Counsel,
Interstate Commerce Commission,
Washington 25, D. C.

June 20, 1956.

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In the Supreme Court of the United States

OCTOBER TERM, 1955

No. 961

AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL., APPELLANTS

v.

UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, ET AL., APPELLEES

No. 973

RAILWAY LABOR EXECUTIVES ASSOCIATION, ET AL., APPELLANTS

v.

UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, ET AL., APPELLEES

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

MOTION BY THE INTERSTATE COMMERCE COMMISSION TO AFFIRM

Pursuant to Rule 16, Paragraph 1 (c) of the Revised Rules of this Court, the appellee Interstate Commerce Commission moves that the judgment of the district court be affirmed.

OPINION BELOW

The opinion of the district court has not been reported, but a copy is contained in Appendix A to the Jurisdictional Statement in No. 961, pp. 28–32. The Commission's decision (63 M. C. C. 91) is contained in Appendix D to the Jurisdictional Statement in No. 973, pp. 15a–46a.

STATUTES INVOLVED

The statutory provisions involved are set forth verbatim in Appendix D to the Jurisdictional Statement in No. 961, pp. 34–43.

QUESTIONS PRESENTED

1. Where the Commission, acting under Section 207 (a) of the Interstate Commerce Act, finds that the public convenience and necessity requires new or additional motor carrier service to be performed by a railroad controlled motor carrier, does the proviso of Section 5 (2) (b) of the Act, applicable to mergers and acquisitions, require that such motor carrier service be restricted to service auxiliary and supplemental to the rail service, regardless of the public need for transportation?

2. Whether the court below correctly held that the Commission's findings of fact are supported by substantial evidence.

STATEMENT

These are direct appeals taken under 28 U. S. C. 1253 and 2101 (b) from a final judgment, entered January 27, 1956, of a three-judge district court convened pursuant to 28 U. S. C. 2284 and 2325. The

judgment dismissed appellants' complaints seeking to set aside an order of the Interstate Commerce Commission (hereinafter called the Commission). The Commission's order, entered on November 22, 1954, granted an application by a motor carrier subsidiary of a railroad for a certificate of public convenience and necessity to transport property between Silvis, Illinois, and Omaha, Nebraska, over regular routes, serving designated intermediate and off-route points, and subject to certain conditions, but without imposing restrictions which would specifically limit the operations of the railroad subsidiary to services which are auxiliary to or supplemental of the rail service of the parent railroad.

Background.—On April 1, 1938, the Commission authorized The Rock Island Motor Transit Company (hereinafter called "Motor Transit", which was then and still is a wholly-owned subsidiary of Chicago, Rock Island and Pacific Railroad Company), to purchase the property and general commodity operating rights of the White Line Motor Freight Company which operated on U. S. Highway 6 between Silvis, Illinois (near the Mississippi River), and Omaha, Nebraska, with the following conditions here pertinent (Docket No. MC-F-445, *Rock Island M. Transit Co.—Purchase—White Line M. Frt.*, 5 M. C. C. 451, 458):

> (2) that applicant shall not, if the authority herein granted be exercised, render service from or to, or interchange traffic at, any point other than a station on the lines of said railroad; (3) that the authority herein granted shall be sub-

> ject to such further limitations, restrictions, or modifications as we may find it necessary to impose or make in order to insure that service shall be auxiliary or supplementary to train service of the railroad and shall not unduly restrain competition.

A certificate was issued to Motor Transit on December 3, 1941, following this purchase, in Docket No. MC–29130. On November 28, 1944, the Commission authorized Motor Transit to acquire the general commodity certificates and property of D. H. and J. H. Frederickson (Docket No. MC–F–2327, *Rock Island M. Transit Co.—Purchase—Frederickson*, 39 M. C. C. 824) covering certain routes connecting with the White Line Route, between Harlan, Atlantic and Oakland in Iowa, and Omaha, Nebraska (hereafter referred to as the Frederickson Route).

However, before a certificate covering the Frederickson Line purchase was issued to Motor Transit, the Commission, on February 5, 1945, reopened that proceeding (MC–F–2327), the proceeding relating to the White Line acquisition (MC–F–445), and Motor Transit's certificate proceeding in MC–29130, to determine what restrictions, if any, should be imposed to insure that the motor carrier service performed by Motor Transit would be limited to that which is auxiliary to, or supplemental of, the rail service of its parent company. After proceedings (40 M. C. C. 457 and 55 M. C. C. 567) in which Motor Transit offered no evidence as to the necessity for such restrictions but challenged the power of the Commission to impose them, the Commission, in April 1949, ordered that

Motor Transit's operations on the White Line and Frederickson Line routes be subjected to the following five conditions (55 M. C. C. 567, 597):

> 1. The service to be performed by The Rock Island Motor Transit Company shall be limited to service which is auxiliary to, or supplemental of, train service of The Chicago, Rock Island and Pacific Railroad Company, hereinafter called the railroad.
>
> 2. The Rock Island Motor Transit Company shall not render any service to or from any point not a station on a rail line of the railroad.
>
> 3. No shipments shall be transported by The Rock Island Motor Transit Company between any of the following points, or through, or to, or from, more than one of said points: Omaha, Nebr., Des Moines, Iowa, and collectively Davenport and Bettendorf, Iowa, and Rock Island, Moline, and East Moline, Ill.
>
> 4. All contractual arrangements between the Rock Island Motor Transit Company and the railroad shall be reported to us and shall be subject to revision, if and as we find it to be necessary, in order that such arrangements shall be fair and equitable to the parties.
>
> 5. Such further specific conditions as we, in the future, find it necessary to impose in order to insure that the service shall be auxiliary to, or supplemental of, train service.

The Commission's *power* to impose the quoted restrictions was challenged by Motor Transit before a three-judge District Court for the Northern District of Illinois, which denied that power in *Rock Island Motor Transit Co.* v. *United States*, 90 F. Supp. 516 (November 29, 1949). However, that decision was

reversed and the Commission's power to impose those restrictions was finally sustained by this Court in *United States* v. *Rock Island Motor Transit Co.*, 340 U. S. 419 (February 26, 1951). A certificate of public convenience and necessity containing these restrictions was issued to Motor Transit on September 11, 1951.

However, on August 30, 1951, and prior to the issuance of the certificate dated September 11, the Commission issued to Motor Transit temporary authority to operate over the White Line and Frederickson Line routes, subject to the following restrictions:

> (1) No service to be performed for shipments originating at Chicago, Ill., or Omaha, Nebr., and destined to either of said points.
>
> (2) No shipment to be transported between any of the following points or through, or to, or from more than one of said points: Omaha, and collectively Davenport and Bettendorf, Ia., Rock Island, Moline and East Moline, Ill.
>
> (3) No single shipment to be handled on motor carrier billing weighing more than 2,000 pounds.

On November 1, 1951, the weight limitation was increased to a maximum of 5,000 pounds for any one shipment. Since August 30, 1951, Motor Transit has operated under this temporary authority over the routes in question.

The present proceeding.—The proceeding resulting in the order presently under attack arises out of an application for a *permanent* certificate of public convenience and necessity under Section 207 (a) of the Act filed by Motor Transit on October 26, 1951.

(Commission's Docket No. MC–29130 (Sub. No. 70)). The motor carrier service for which authority was requested in this application is described in detail at pages 91 and 92 of the Commission's report (63 M. C. C. 91 and 92). Leaving aside the requested route segment between Chicago and Silvis, Illinois, which the Commission denied on the ground that Motor Transit already possessed such authority (63 M. C. C., p. 108), the application in substance sought authority to serve points on the White Line and Frederickson Line routes, plus certain named off-line points, without the restrictions which the Commission had imposed in the certificate dated September 11, 1951, and which had been upheld by this Court.

A hearing before a hearing examiner was held on Motor Transit's application, and consumed 14 days between March 18 and May 22, 1952. In this hearing, in contrast with the earlier acquisition proceedings, Motor Transit presented extensive evidence as to the public need for its motor carrier service in the territory involved in the application. The hearing examiner issued a recommended decision on April 21, 1953, exceptions were filed, and oral argument was had before the entire Commission. On November 22, 1954, the Commission issued its report (63 M. C. C. 91) and order substantially granting Motor Transit's application, subject to the following conditions (63 M. C. C., p. 109; Jurisdictional Statement No. 973, Appendix D, p. 41a):

> (1) that there may be attached from time to time to the privileges granted herein such rea-

> sonable terms, conditions, and limitations as the public convenience and necessity may require, and
>
> (2) that all contractual arrangements between The Rock Island Motor Transit Company and the Chicago, Rock Island and Pacific Railroad Company shall be reported to us and shall be subject to revision, if and as we find it to be necessary in order that such arrangements shall be fair and equitable to the parties; * * *

The plaintiffs' petition for reconsideration was denied by the Commission on July 6, 1955.

The appellants in No. 961, being motor carriers and associations of motor carriers which actively opposed Motor Transit's application under Section 207 (a) filed their complaint in the District Court on July 20, 1955, seeking to set aside the Commission's orders. The appellants in No. 973, being railway labor organizations whose intervention in the proceeding the Commission had permitted on July 6 and September 9, 1955, filed their complaints in the District Court as intervening plaintiffs on October 24, 1955.

The District Court heard arguments on the case on December 15, 1955, and rendered its opinion on January 11, 1956 (Jurisdictional Statement, No. 961, Appendix A, p. 28). Judgment for defendants (*Ibid.* Appendix B, p. 32), was entered by the District Court on January 27, 1956. The Motor Carrier appellants in No. 961 filed notice of appeal on March 23, 1956, and the railway labor appellants in No. 973 filed such notice on March 26, 1956.

The District Court's opinion held that the Commission had power, under Section 207 (a) of the Interstate Commerce Act (49 U. S. C. 307 (a)) to grant a certificate to a motor carrier affiliate of a railroad without restricting service thereunder to that which is auxiliary to or supplementary to railroad service, provided there is a sufficient showing that public convenience and necessity required such unrestricted grant. In so holding, the District Court denied the contentions of the protesting motor carriers and the railway labor organizations that the requirement of the proviso to Section 5 (2) (b) of that Act (49 U. S. C. 5 (2). (b)), prohibiting acquisitions by a railroad, or its affiliate, of motor carrier operating rights except in those cases where the Commission finds that the proposed acquisition transaction "will enable such [railroad] carrier to use service by motor vehicle to public advantage in its [rail] operations and will not unduly restrain competition," must be applied in connection with a new service or extension-of-service application by a railroad or its affiliate for motor carrier rights. The lower court held the Section 5 (2) (b) proviso not to be an absolute limitation on the grant of a motor carrier certificate to a railroad or its affiliate; and that the policy expressed by Congress in such proviso, although it is to be considered by the Commission even in application cases under Section 207 (a), need not be applied by the Commission in those exceptional cases under Section 207 (a) where the public interest, convenience and necessity require the grant of un-

restricted authority to a railroad applicant for operating authority.

The District Court further held that the Commission's findings, to the effect that the public convenience and necessity justified the grant under the exceptional circumstances of the instant case, were supported by evidence in the record.

ARGUMENT

1. We contend, with the court below, that where the Commission, acting under Section 207 (a) of the Interstate Commerce Act, finds that unusual circumstances of public convenience and necessity require new or additional motor carrier service to be performed by a railroad controlled motor carrier, the proviso of Section 5 (2) (b), applicable to mergers and acquisitions, does not require that such motor carrier service be restricted to service auxiliary and supplemental to the rail service without regard to the public need for transportation. This result is compelled by the language, history and consistent administrative construction of the Act.

(a) The Commission's order in the instant case was issued pursuant to Section 207 (a) of the Act which provides that "Subject to section 210, a certificate shall be issued to any qualified applicant * * * if it is found that the applicant is fit, willing, and able * * * and that the proposed service * * * is or will be required by the present or future public convenience and necessity." It is Section 207 (a) which empowers the Commission to authorize new or additional motor carrier service. The proviso of

Section 5 (2) (b) provides, in effect, that where a railroad or its affiliate acquires an existing motor carrier, the Commission must find not only that the proposed acquisition is "consistent with the public interest" (as in any case in which one carrier acquires another), but also that the acquisition will enable the railroad to use motor carrier service to public advantage in its rail operations and will not unduly restrain competition. The appellants contend that Section 5 (2) (b) must be read into Section 207 (a) as prohibiting the Commission from authorizing a railroad affiliate (such as Motor Transit) to provide *new or additional* motor carrier service unless such service is restricted to that which is auxiliary and supplemental to the rail service of the parent Rock Island Railroad.

To begin with, Section 207 (a) simply provides that "*any* qualified applicant" may be authorized to provide new or additional motor-carrier service—as distinguished from the acquisition of an existing motor carrier operation. It contains no requirement that unusual or special conditions be imposed upon certificates issued to motor carrier subsidiaries of railroads. The omission of such a requirement is particularly significant because Section 207 (a) begins with the words "Subject to section 210," which prohibits a contract motor carrier or its affiliate from holding a common carrier certificate under Section 207 unless such a dual operation is approved by the Commission as being in the public interest. By thus specifying in Section 207 the dual transportation operations which it did not wish to be authorized without restriction,

the failure of Congress to refer to the restriction of Section 5 (2) (b) presumably means that it did not intend that restriction to be imported into Section 207. It cannot be presumed that this precise statutory language was eccentric or inadvertent, since the Congress might well have concluded that the competitive consequences of permitting a railroad to absorb existing motor carrier competitors must satisfy other standards than the public convenience and necessity which will support the authorization of new or additional motor carrier service.

(b) While the Commission has not treated the proviso of Section 5 (2) (b) as a rigid restriction upon the authority conferred by Section 207 (a), it has recognized, beginning with *Pennsylvania Truck Lines, Inc.—Control—Barker,* 1 M. C. C. 101 (1936), that the proviso also embodies a policy against general and unrestricted railroad entry into the motor carrier field. At the same time, in a series of cases beginning with *St. Andrews Bay Transportation Company Extension of Operations,* 3 M. C. C. 711 (1937), the Commission refused to read the proviso of Section 5 (2) (b) into Section 207 as a rigid limitation on the issuance of certificates of public convenience and necessity.

The Commission's construction of Section 5 (2) (b) and 207 (a) in certificate cases is consistent with the sparse legislative history of the proviso of Section 5 (2) (b) which indicates that the specific concern of Congress was to restrict railroads' acquisition of control of motor carriers. See *Hearings before House Committee on Interstate and Foreign Com-*

merce on H. R. 5262 and S. 1629, 74th Cong., 1st Sess. (1935), pp. 46, 337, 376; 79 Cong. Rec. 5655, 12206.

More significant, during the *Hearings before the Senate Subcommittee on Interstate Commerce on S. 3606,* 75th Cong., 3d Sess. (the 1938 amendments to the Motor Carrier Act), pp. 26–31, Senator Shipstead, after referring to the Commission's decisions in the *Barker* and *St. Andrews Bay* cases, *supra,* stated that it was "clearly the intention of Congress that [railroads] should be prohibited from acquiring or initiating motor truck or bus service under certain other conditions." Accordingly, he proposed an amendment which would have repeated in Section 207 what is now the proviso of Section 5 (2) (b). Senator Shipstead's amendment was supported by the motor carrier industry (*ibid.* 128–129) and opposed by the railroads (*ibid.* 157–164). Thereafter, Senator Shipstead withdrew his amendment for the reason that it appeared that the amendment would provoke a controversy and might delay the adoption of S. 3606 at that session. Sen. Rep. 1650, 75th Cong., 3d Sess., p. 3.

Thus, in 1938, with specific knowledge of the Commission's view that the proviso of Section 5 (2) (b) was not controlling in determining applications for motor carrier certificates under Section 207, Congress declined to avail itself of an opportunity to write the proviso into Section 207. Moreover, between the *St. Andrews Bay* case and February 1940, the Commission at least twice reiterated its view that the proviso of Section 5 (2) (b) was not rigidly controlling in cases under Section 207. *Interstate Transit*

Lines Extension—Verdon, Nebraska, 10 M. C. C. 665 (1938); *Santa Fe Trail Stages, Inc. Common Carrier Application,* 21 M. C. C. 725, 753 (1940). Nevertheless, in the general overhaul of the Interstate Commerce Act by the Transportation Act of 1940, Section 207 (a) was not changed. We submit that this post-enactment legislative history is persuasive evidence that the Commission has interpreted correctly the will of Congress. *United States* v. *American Trucking Associations,* 310 U. S. 534, 549–550.

(b) As noted above, beginning with the *St. Andrews Bay* case, *supra,* the Commission has long and consistently held that the proviso of Section 5 (2) (b) is not to be read into Section 207 (a) as a rigid limitation on the issuance of certificates to railroads or their affiliates. Nevertheless, from the beginning in such cases, the Commission has pointed to the public need for the additional motor carrier service to be performed by the railroad-controlled applicant and which probably could not or would not be met by existing motor carriers. See *Kansas City Southern Transport Co. Inc., Common Carrier Application,* 10 M. C. C. 221, 237–238 (1938); and 28 M. C. C. 5 (1941); *Santa Fe Trail Stages, Inc., Common Carrier Application, supra; Burlington Transportation Co. Extension—Council Bluffs,* 28 M. C. C. 783 (1941); *Rock Island Motor Transit Co. Extension—Wellman, Iowa,* 31 M. C. C. 643 (1942); *Texas & Pacific Motor Transport Co. Ext.—Point Blue, La.,* 47 M. C. C. 425 (1947); *Burlington Truck Lines, Inc. Extension—Iowa,* 48 M. C. C. 516 (1948).

From these cases, as well as from the many cases in which motor carrier service by rail affiliates has been restricted to service auxiliary and supplemental to the rail service, the Commission has evolved the general principle that

> the accomplishment of the purposes forming the national transportation policy, require that, *except where unusual circumstances prevail*, every grant to a railroad or to a railroad affiliate of authority to operate as a common carrier by motor vehicle or to acquire such authority by purchase or otherwise should be so conditioned as definitely to limit the future service by motor vehicle to that which is auxiliary to, or supplemental of, train service. (Emphasis added)

Rock Island Motor Transit Co.—Purchase—White Line Motor Freight, Inc., 40 M. C. C. 457, 473 (1946). Or, as stated otherwise by the Commission in the instant case (App. D to Jurisdictional Statement in No. 973, p. 31a):

> The main purpose for the policy of imposing the five above-quoted restrictions, or modifications thereof, was to prevent the railroads from acquiring motor operations through affiliates and using them in such a manner as to unduly restrain competition of independently operated motor carriers. This policy was and is sound and should be relaxed only where the circumstances clearly establish (1) that the grant of authority has not resulted and probably will not result in the undue restraint of competition, and (2) that the public interest requires the proposed operation, which the authorized

independent motor carriers have not furnished, except where it suited their convenience.

We submit that the Commission clearly has struck a reasonable balance between the general Congressional objectives of preventing rail domination of motor carriage and of satisfying the public need for transportation.

(d) We believe that this Court already has recognized implicitly the power of the Commission under Section 207 to authorize a railroad or its affiliate to perform motor carrier service which is not auxiliary and supplemental to the rail service. While the Court has not had occasion to consider squarely the precise question involved in this case, it has rendered three decisions in this general area.

Interstate Commerce Commission v. *Parker*, 326 U. S. 60, upheld the power of the Commission under Section 207 to authorize a subsidiary of a railroad to perform motor carrier service supplemental to the rail service even though existing motor carriers could arrange to perform the proposed service. *United States* v. *Rock Island Motor Transit Co.*, 340 U. S. 419, sustains the power of the Commission to approve the acquisition of a motor carrier by a railroad affiliate upon conditions that will restrict the acquired motor carrier operations to service auxiliary and supplemental to the rail service. In *United States* v. *Texas & Pacific Motor Transport Co.*, 340 U. S. 450, this Court held that the Commission is empowered to impose upon certificates issued under Section 207 to railroads or their affiliates substantially the same conditions which were attached to the approval of an

acquisition of an existing motor carrier in the *Rock Island* case.

There is no suggestion in any of these cases that this Court considered the proviso of Section 5 (2) (b) as an inflexible limitation upon the power of the Commission under Section 207 to issue a certificate of public convenience and necessity to "any qualified applicant." To the contrary, we find in this Court's *Rock Island decision* almost express approval of the Commission's long-established view that in certificate cases under Section 207, the proviso of Section 5 (2) (b) is a legislative policy to be taken into account, rather than a straitjacket. Thus, the Court stated (340 U. S., at 442) that—

> Rail affiliates have been permitted to leave the line of the railroad to serve communities without other transportation service. Those divergencies, however, are an exercise of the discretionary and supervisory power with which Congress has endowed the Commission. It is because Congress could not deal with the multitudinous and variable situations that arise that the Commission was given authority to adjust services within the limits of the Motor Carrier Act.

This Court in the *Rock Island* case cited with apparent approval (at least without express disapproval) excerpts from the Commission's decisions in which the "special circumstances" doctrine was announced and applied, in footnote 4 on p. 428 (*Rock Island Motor Transit Co.—Purchase—White Line Motor Freight*, 40 M. C. C. 457, 471, 473–474; *Kansas City Southern Tptn. Co. Common Carrier Applu.*,

10 M. C. C. 221, 237), and in footnote 21 on p. 442 (*Rock Island Motor Transit Co. Extension—Wellman, Iowa*, 31 M. C. C. 643, and *Rock Island Motor Transit Co.—Purchase—White Line M. Frt.*, 55 M. C. C. 567, 584.)

In view of the language and history of Section 207 and the proviso of Section 5 (2) (b) and their interpretation by the Commission and by this Court, we submit that the Commission clearly is authorized in appropriate circumstances, to empower a rail affiliate to perform motor carrier service which is not restricted to service auxiliary and supplemental to the rail srevice.[1]

2. The motor carrier appellants present the question of whether the record before the Commission supports the Commission's report and order authorizing Motor Transit to serve the points here involved, subject only to the conditions discussed hereafter (Jurisdictional Statement in No. 961, p. 3).

[1] The contention of the appellant labor organizations that the present case is simply a continuation or reopening of the prior proceeding involving Motor Transit's acquisition of the White Line and Frederickson Line routes, is merely another way of contending that regardless of the public need for transportation, a rail subsidiary may never be authorized to perform motor carrier service which is not auxiliary and supplemental to the rail service of its parent. As noted above, an application for a certificate under Sec. 207 (a) invokes considerations of public convenience and necessity which are not involved in an application under Sec. 5 (2) (b) for approval of a merger or acquisition. Also, in the instant proceeding, Motor Transit offered extensive evidence as to the public need for the service which the Commission has authorized; while in the earlier proceeding Motor Transit stood entirely upon its legal position that the Commission lacked power to impose the auxiliary and supplemental service restrictions.

However, they "concede that there was sufficient evidence of record to enable the District Court to sustain the Commission's order insofar as it authorized a bona fide auxiliary and supplemental service to be rendered to and from such relatively minor points as Brooklyn, Colfax, Marengo, Newton, Oxford, Victor, Walcott and Wilton Junction." But "to the extent that the Commission's order finds that unrestricted service by Motor Transit between such major points as Davenport, Cedar Rapids, Des Moines, Council Bluffs and Omaha is required by the public convenience and necessity, appellants contend that the District Court erred in failing to set aside the Commission's order for want of evidentiary support" (*Ibid.*, pp. 10–11).

The Commission's order was based upon the extensive evidence which is summarized in its report. Thus, it had before it the testimony of 111 shipper witnesses from 56 points on the routes in question as to their need for Motor Transit's service (Jurisdictional Statement in No. 973, pp. 22a, 33a–34a). Thirty-eight witnesses from other points, such as Kansas City, testified that they need to use Motor Transit's service to and from points on these routes (*Ibid.* p. 21a). There was particularly persuasive testimony from other motor carriers that only Motor Transit has provided adequate service on interchange shipments to points on the White Line and Frederickson Line routes (*Ibid.* pp. 20a, 33a).

The Commission found, and it is not disputed, that Motor Transit is the only carrier that has maintained

daily (generally at least five days a week) scheduled peddle operations over the entire White Line and Frederickson Line routes regardless of the volume of traffic available for movement in such operations (*Ibid.* p. 33a). Peddle operations consist of pick-up and delivery service, largely at smaller points and in less than truckload lots. Motor Transit is the only carrier with intra-state rights on these routes, because it is the policy of the Iowa State Commerce Commission to grant such rights to only one carrier on a given route (*Ibid.* 38a).[2] The Commission found, in effect, that the expensive peddle service can be performed only by a carrier authorized to handle both interstate and intra-state shipments. Thus, it noted that "The peddle service provided by Motor Transit has been based on interstate, intrastate, and rail-billed traffic. With these three kinds of traffic available it is patent that Motor Transit could provide better service to the public than the motor carriers who claim that they can take over Motor Transit's interstate motor-billed business" (*Ibid.* p. 38a).

Turning to what amounts to the motor carrier appellants' contention that the Commission erred in authorizing Motor Transit to serve the larger points on these routes, such as Davenport and Des Moines, which provide the more profitable truckload shipments, the Commission reasoned as follows (*Ibid.* pp. 38a–39a):

[2] We do not understand the apparent suggestion of the motor carrier appellants (Jurisdictional Statement in No. 961, p. 22, fn. 7) that the Interstate Commerce Commission should ignore if not attempt to abrogate, the policy of Iowa.

There is some evidence of a public need for the proposed truckload services of applicant, but it is not as convincing as that with respect to the peddle operations, and this is understandable because the other motor carriers operating in the area have usually provided satisfactory service on truckload shipments. There is also some evidence that the latter have refused to accept truckloads of low-rated commodities. In any event we feel that there is sufficient basis to warrant a complete grant of authority to applicant. This truckload "cream of the traffic," which to some extent has been handled by Motor Transit for many years without seriously affecting the expansion of its competitors' operations, should not be handed over to its competitors and Motor Transit expected to provide the expensive peddle services.

Acceptance of the opposing motor carriers' position would have the following results. They would be left to provide the peddle services on interstate motor-billed traffic, which alone will not justify the type of services heretofore rendered by Motor Transit, and all such traffic in truckloads. Motor Transit would be left with intrastate and rail-billed traffic, which will not warrant continuance of the operations conducted by it prior to August 30, 1951. The net result is clearly not in the public interest.[2]

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[2] In its report (*Ibid.* 20a–21a), the Commission summarizes the testimony of 8 interlining motor carriers as follows:

"Eight motor carriers have been and are interlining traffic with applicant, principally at Chicago and the Tri-Cities. Generally these carriers do not ordinarily experience any difficulty in interlining shipments destined to the larger points of population on U. S. Highway 6, such as Des Moines and Newton, but they are of the opinion that applicant must be in a position to

As the District Court in this case put it, "Actually the result of sustaining the motor carriers' position would be a privilege to them of giving the service now rendered by Motor Transit if they so desire and refusing to give it when it is economically not feasible. That would not appear to serve the public interest." (*Ibid.* p. 13a).

We submit that the Commission's conclusion as to the scope of motor carrier service which must be authorized in order to make commercially feasible the service which is clearly required by the public convenience and necessity is well within the bounds of the broad discretion which Congress has entrusted to it in such matters. *Interstate Commerce Commission* v. *Parker*, 326 U. S. 60, 65, and cases there cited. Also, we believe that these unusual circumstances of public convenience and necessity clearly warranted the Commission in making an exception to its general policy that certificates issued under Section 207 to railroad subsidiaries should authorize only such motor carrier service as is auxiliary and supplemental to the rail service.

Moreover, it should not be overlooked that the Commission has imposed two conditions upon the motor carrier operating authority which it has given to Motor Transit:

---

serve these points and to handle overhead traffic in order to provide the required service, particularly the expensive peddle operations at the smaller points to avoid sustaining a loss on the entire operation. Several of these carriers are members of the American Trucking Associations, Inc., which is opposing the application."

> (1) that there may be attached from time to time to the privileges granted herein such reasonable terms, conditions, and limitations as the public convenience and necessity may require, and (2) that all contractual arrangements between The Rock Island Motor Transit Company and the Chicago, Rock Island and Pacific Railroad Company shall be reported to us and shall be subject to revision, if and as we find it to be necessary in order that such arrangements shall be fair and equitable to the parties; * * *.

The second quoted condition was adopted by the Commission for the specific purpose of providing a continuous check upon any unfair subsidization of Motor Transit's motor carrier operations by the parent Rock Island railroad, and thus anticipates the appellant motor carriers' apprehension (Jurisdictional Statement No. 961, p. 24) that Motor Transit will drive them out of business.[4] The validity of this condition was sustained in *United States* v. *Rock Island Motor Transit Co.*, 340 U. S. 419, 436–444.

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[4] There is no challenge to the Commission's finding that the past "operations of [Motor Transit] have not unduly restrained competition, and there is no evidence that its proposed operations would produce such a result." (Jurisdictional Statement No. 973, p. 36a.)

CONCLUSION

For the foregoing reasons, we submit that the decision below is correct and that these appeals present no substantial questions. The judgment of the district court should be affirmed.

Respectfully submitted.

ROBERT W. GINNANE,
General Counsel,
Interstate Commerce Commission.

JUNE 20, 1956.

CERTIFICATE OF SERVICE

In compliance with the applicable provisions of the Revised Rules of the Supreme Court of the United States, I, Robert W. Ginnane, General Counsel of the Interstate Commerce Commission, on whose behalf the foregoing Motion to Affirm is submitted, and a Member of the Bar of the Supreme Court of the United States, hereby certify that I have served copies of the foregoing document on counsel for the several parties to this proceeding, as follows:

1. On American Trucking Associations, Inc., appellant in No. 961, by mailing copies in duly addressed envelopes with first class postage prepaid to:

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Fritz R. Kahn, Esq.,
1424 16th St. NW.,
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2. On Regular Common Carrier Conference of American Trucking Association, Inc., appellant in No. 961, by mailing copies in duly addressed envelopes with first class postage prepaid to:

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4. On Railway Labor Executives Association, et al., appellants in No. 973, by mailing copies in duly addressed envelopes with first class postage prepaid to:

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5. On the United States of America, appellee, by mailing copies in duly addressed envelopes with first class postage prepaid to:

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6. On The Rock Island Motor Transit Company, Employees' Committee of The Rock Island Motor Transit Company, Traffic Bureaus and/or Chambers of Commerce of Davenport, et al., Shippers' Committee, et al., and Iowa State Commerce Commission, appellees, by mailing copies in duly addressed envelopes with first class airmail postage prepaid to:

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This the 20th day of June 1956.

ROBERT W. GINNANE.

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In the Supreme Court of the United States

October Term, 1957

AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL.,

Appellants,

vs.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, ET AL.,

Appellees.

No. 6

AND

RAILWAY LABOR EXECUTIVES' ASSOCIATION, ET AL.,

Appellants,

vs.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION,

Appellees.

No. 8

BRIEF OF INTERVENOR APPELLEE IOWA STATE COMMERCE COMMISSION

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No. 8

BRIEF OF INTERVENOR-APPELLEE IOWA STATE COMMERCE COMMISSION

The Iowa State Commerce Commission is an elective body chosen by the people of Iowa. Broadly speaking, it is charged with the responsibility of regulating surface transportation in the public interest. Its duty is to so regulate the various carriers operating within the state as to preserve an adequate transportation system to meet the public convenience and necessity. The mem-

bers of the Commission are at all times cognizant of this responsibility. It is for this reason that the Commission intervened in support of the Rock Island Motor Transit Company before the Interstate Commerce Commission and in the courts.

The Rock Island Motor Transit Company, and its predecessors, have for many years served a large number of cities and towns in Iowa, both as an interstate carrier operating under authority granted by the Interstate Commerce Commission, and as an intrastate carrier operating under authority granted by the Iowa Commission. For a number of years prior to September 1, 1951, the Rock Island Motor Transit Company has been the only carrier rendering an adequate and efficient transportation service on less-than-truckload shipments to the many small towns located on the routes in question and to certain other adjacent points located on its authorized routes. Since that date, it has been the only carrier providing consistent service to these points to the extent authorized under its temporary authorities. Because of the weight and "key point" restrictions contained in the temporary operating authorities, however, the service rendered was not regarded as adequate. The trend of motor carriers operating in Iowa generally has been to refrain from rendering local service on small shipments. For these reasons only, the Iowa Commission has supported the Rock Island Motor Transit Company's effort to have these restrictions removed, and to continue permanently the service it has been rendering. It is not the Iowa Commission's purpose to support one carrier to the detriment of another, but only to do what it can to establish and preserve an adequate transportation sys-

tem. It recognizes that regulation of interstate transportation is within the exclusive jurisdiction of the Interstate Commerce Commission.

The Iowa Commission adheres to the rule of public utility regulation that where the potential business makes economically feasible service by only one common carrier, it certificates only one. The Iowa Commission many years ago granted a certificate to Rock Island Motor Transit's predecessor in interest for intrastate traffic along the routes in question. No other carrier is authorized, and none appears willing to perform small "peddle" type service along these routes.

The following testimony was given at the hearing before the Interstate Commerce Commission by Carl W. Reed, at that time Chairman of the Iowa State Commerce Commission. His testimony appears at page 739 of the record and the following excerpt appears at pages 741, 742 and 743:

"Q. (By Mr. Howland) Judge Reed, as a member of the Iowa State Commerce Commission, you are familiar with the general trends in the motor carrier industry with respect to service and with respect to the operation of motor carriers generally, is that true?

A. I think so.

Q. What has been the general trend in recent months and particularly in the last 18 months to 2 years with respect to the service rendered by motor carriers to intermediate points between the larger centers of population in the State, both interstate and intrastate?

Mr. Fowler: That is objected to as immaterial, incompetent.

Exam. Carpenter: The objection is overruled.

A. The experience of our commission, based upon the information that came to us from the shippers and also [fol. 939] from the carriers themselves, has been that the carriers were not interested in the local service.

Mr. Fowler: I move to strike the answer of the witness on the ground that it is hearsay.

Exam. Carpenter: The motion is overruled.

Q. (By Mr. Howland) What have you observed with respect to the position and the ability of motor carriers generally to render service on smaller shipments to intermediate points between the larger centers of population, say points between Iowa City and Des Moines or Iowa City and Newton, Iowa, territories of that kind?

Mr. Fowler: That is objected to on the ground that it is immaterial, calls for an incompetent conclusion and opinion of the witness.

Exam. Carpenter: The motion is overruled.

A. I couldn't say as to what the ability of the carriers was. I only know what the actual service that they are rendering or are not rendering is.

Q. (By Mr. Howland) And what has been the trend with respect to that phase of the matter, Judge?

Mr. Fowler: Same objection.

Exam. Carpenter: Same ruling.

A. The trend in this State in the matters that we have contact with has been that the carriers generally are getting away from the local service and the smaller shipments.

Q. (By Mr. Howland) In recent months, has the Iowa Commission had motor carrier matters be-

fore it, both in instances where there have been applications for authority and in instances in which carriers already possessing authority have proposed to curtail the quantity of the service they are performing to the intermediate points?

Mr. Fowler: That is objected to as immaterial and for the reason that if it involves matters pertaining to intrastate operators, it is particularly immaterial to this record.

Exam. Carpenter: Objection overruled.

The Witness: Will you read that question, please?

(Question read.)

A. Yes; we have had some matters of that kind and in some instances we have approved the leasing of some of the local service performed by carriers that had service between key points and along the entire line.

Q. (By Mr. Howland) Judge Reed, I just want to be certain that I fully understand the position that the Iowa commission has taken. What is the commission primarily interested in here with respect to this particular application? In other words, are you particularly supporting the application because it is made by the Rock Island Motor Transit Company, or have there been other factors that have motivated you and the other members of the commission in the position which you have taken?

Mr. Fowler: That is objected to as immaterial and hearsay.

Exam. Carpenter: The objection is overruled.

A. The position of the commission has been that it doesn't take any position for or against any particular carrier. In this particular instance,

our interest has been to see that service was performed to the various communities.

Q. (By Mr. Howland) And as far as you are advised, do you know of any carrier that is in a position to or is ready, willing, and able to perform the service which has been performed by the applicant along the routes between Davenport and Council Bluffs, Iowa, or Omaha, Nebr., which are covered by this application

Mr. Fowler: That is objected to as hearsay.

Exam. Carpenter: Objection overruled.

A. Of course, I don't know offhand just what authority every carrier has, but I do not recall of any carrier that has been performing this service that the Rock Island Motor Transit Company has been performing."

Conditions have not changed in Iowa to cause the Iowa State Commerce Commission to deviate from its previous views. It is felt that the best way to preserve adequate service to the public of the kind rendered by the Rock Island Motor Transit Company is for that carrier to conduct operations as authorized by the Interstate Commerce Commission. The order of the Interstate Commerce Commission finds abundant support in the evidence and is within the lawful powers of that Commission. We believe that both the law and the public interest require that the order of the Interstate Commerce Commission and the judgment of the District Court be sustained.

Respectfully submitted,

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Nos. 6 and 8

In the Supreme Court of the United States

OCTOBER TERM, 1957

AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL.,
APPELLANTS

v.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, ET AL.

RAILWAY LABOR EXECUTIVES' ASSOCIATION, ET AL.,
APPELLANTS

v.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, ET AL.

APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

BRIEF FOR THE INTERSTATE COMMERCE COMMISSION

ROBERT W. GINNANE,
General Counsel.
JAMES Y. PIPER,
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Washington 25, D. C.

SEPTEMBER 26, 1957.

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In the Supreme Court of the United States

OCTOBER TERM, 1957

No. 6

AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL.,
APPELLANTS

v.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, ET AL.

No. 8

RAILWAY LABOR EXECUTIVES' ASSOCIATION, ET AL.,
APPELLANTS

v.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, ET AL.

APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

BRIEF FOR THE INTERSTATE COMMERCE COMMISSION

OPINIONS BELOW

The opinion of the three-judge District Court (R. 192–195) is reported at 144 F. Supp. 365. The report of the Interstate Commerce Commission in Docket No. MC–29130 (Sub. No. 70), *The Rock*

Island Motor Transit Company Common Carrier Application, dated November 22, 1954 (R. 93–121), is reported at 63 M. C. C. 91.

JURISDICTION

The judgment of the District Court (R. 195–196) was entered on January 27, 1956, and separate notices of appeal were filed by the appellants on March 23 and 26, 1956 (R. 197–202). The jurisdiction of this Court rests upon 28 U. S. C. 1253 and 2101 (b). Probable jurisdiction of the cases was noted on October 8, 1956, and they were consolidated for oral argument (R. 204).

STATUTES INVOLVED

The pertinent provisions of the Interstate Commerce Act are set forth in Appendix A to the brief of the appellants in No. 6.

QUESTIONS PRESENTED

1. Whether the proviso in Section 5 (2) (b) of the Interstate Commerce Act precludes the Commission from authorizing, pursuant to Section 207 (a), a subsidiary of a railroad to provide ordinary motor carrier service at points on or near the railroad to meet a public need for service which other motor carriers cannot or will not provide.

2. Whether the motor carrier service authorized by the Commission was warranted by the Commission's findings and by the evidence as to public convenience and necessity.[1]

[1] In noting probable jurisdiction in these cases, the Court further stated that counsel in No. 8 are invited to discuss the

STATEMENT

This case originated in a complaint (R. 85–93) filed in the court below on July 20, 1955, by American Trucking Associations, Inc., its Regular Common Carrier Conference, and nine motor carriers seeking to set aside the report and order of the Interstate Commerce Commission dated November 22, 1954, which directed the issuance of a certificate of public convenience and necessity under Section 207 (a) of the Interstate Commerce Act (49 U. S. C. 307 (a)) authorizing The Rock Island Motor Transit Company to carry general commodities as a motor common carrier over described routes between Silvis, Illinois, and Omaha, Nebaska. The Iowa State Commerce Commission, The Rock Island Motor Transit Company (hereafter referred to as "applicant" or "Motor Transit"), a committee of its employees, and numerous commercial and shipper organizations from the territory involved were permitted to intervene in support of the Commission's order (R. 172, 173). The Railway Labor Executives' Association, representing

issue of standing to sue. The interest of Railway Labor Executives' Association, et al., the appellants in No. 8, as representatives of the employees of the Chicago, Rock Island and Pacific Railroad, in the subject matter of the Commission's order is somewhat tenuous. However, Section 17 (11) of the Interstate Commerce Act provides that "Representatives of employees of a carrier, duly designated as such, may intervene and be heard in any proceeding under this act affecting employees." Section 17 (11) is made applicable to motor carrier proceedings under Part II by Section 205 (h), and was applied by this Court in *Brotherhood of Railroad Trainmen* v. *Baltimore & Ohio Ry. Co.*, 331 U. S. 519. Under these circumstances, the appellees have not challenged the standing to sue of the appellants in No. 8.

18 railway labor organizations, the Brotherhood of Railway Trainmen and the Order of Railway Conductors and Brakemen were allowed to intervene in support of the plaintiffs (R. 171). Rock Island Motor Transit Company is a wholly owned subsidiary of the Chicago, Rock Island & Pacific Railroad Company (R. 95).

Answers were filed by the United States (R. 138, 174, and 176), by the Commission (R. 133, 186, and 189) and by the intervening defendants (R. 126, 152, 179, and 183).

Background proceedings. In 1938, the Commission authorized Motor Transit to purchase the property and operating rights of the White Line Motor Freight Company which operated on U. S. Highway 6 between Silvis, Illinois, and Omaha, Nebraska, with the following conditions here pertinent (*The Rock Island Motor Transit Co.—Purchase—White Line Motor Freight Co.*, 5 M. C. C. 451, 458):

> that applicant shall not, if the authority herein granted be exercised, render service from or to, or interchange traffic at, any point other than a station on the lines of said railroad; that the authority herein granted shall be subject to such further limitations, restrictions, or modifications as we may find it necessary to impose or make in order to insure that service shall be auxiliary or supplementary to train service of the railroad and shall not unduly restrain competition.

These conditions, which were accepted by Motor Transit, precluded it from making any use of White

Line operating rights to points which were not stations on the Rock Island.

In 1944, the Commission authorized Motor Transit to acquire the certificates and property of D. H. and J. H. Frederickson, covering routes between Harlan, Atlantic and Oakland in Iowa and Omaha, Nebraska (hereafter referred to as the Frederickson Line), 39 M. C. C. 824.

However, before a certificate covering the Frederickson Line route was issued to Motor Transit, the Commission, in February 1945, reopened that proceeding and the proceeding relating to the White Line acquisition to determine what restrictions, if any, should be imposed to insure that the motor carrier service performed by Motor Transit was limited to that which is auxiliary to, or supplemental of, the rail service of its parent company. Thereafter, the report of the entire Commission on reconsideration, dated March 4, 1946, directed that Motor Transit's operations on the White Line and Frederickson Line routes be subjected to the following five conditions:

> 1. The service to be performed by The Rock Island Motor Transit Company shall be limited to service which is auxiliary to, or supplemental of, train service of The Chicago, Rock Island and Pacific Railroad Company, hereinafter called the railroad.
>
> 2. The Rock Island Motor Transit Company shall not render any service to or from any point not a station on a rail line of the railroad.
>
> 3. No shipments shall be transported by The Rock Island Motor Transit Company between

any of the following points, or through, or to, or from, more than one of said points: Omaha, Nebr., Des Moines, Iowa and collectively Davenport and Bettendorf, Iowa, and Rock Island, Moline, and East Moline, Ill.

4. All contractual arrangements between the Rock Island Motor Transit Company and the railroad shall be reported to us and shall be subject to revision, if and as we find it to be necessary, in order that such arrangements shall be fair and equitable to the parties.

5. Such further specific conditions as we, in the future, find it necessary to impose in order to insure that the service shall be auxiliary to, or supplemental of, train service.

40 M. C. C. 457, 477. Upon further reconsideration, in the course of which Motor Transit offered no evidence as to the public need for its service without such restrictions but only challenged the power of the Commission to impose them, the entire Commission affirmed its decision. 50 M. C. C. 567. The Commission's *power* to impose the quoted restrictions was challenged in the courts by Motor Transit, and was finally sustained by this Court in *United States* v. *Rock Island Motor Transit Co.*, 340 U. S. 419 (1951). A certificate of public convenience and necessity containing these restrictions was issued to Motor Transit on September 11, 1951 (R. 96).

However, on August 30, 1951, and prior to the issuance of the certificate dated September 11, the Commission issued to Motor Transit temporary authority to operate over the White Line and Frederickson Line routes, subject to the following restrictions:

(1) No service to be performed for shipments originating at Chicago, Ill., or Omaha, Nebr., and destined to either of said points.

(2) No shipment to be transported between any of the following points or through, or to, or from more than one of said points: Omaha, and collectively Davenport and Bettendorf, Iowa, Rock Island, Moline and East Moline, Ill.

(3) No single shipment to be handled on motor carrier billing weighing more than 2,000 pounds (R. 97).

On November 1, 1951, the weight limitation was increased to a maximum of 5,000 pounds for any one shipment. Since August 30, 1951, Motor Transit has operated under this temporary authority over the routes in question.

The present proceeding. The present proceeding arises out of an application for a permanent certificate of public convenience and necessity under Section 207 (a) of the Act filed by Motor Transit in October 1951. The motor carrier service for which authority was requested in this application is described in detail in the Commission's report (R. 94–95). Leaving aside the requested route segment between Chicago and Silvis, Illinois, which the Commission denied on the ground that Motor Transit already possessed such authority (R. 115–116), the application in substance sought authority to serve named points on the White Line and Frederickson Line routes, plus certain named off-line points, without the restrictions which the Commission had imposed in the certificate dated September 11, 1951. The routes and points involved in the application, together with the population of the points,

are shown on the map attached to this brief as Appendix A.

A hearing on the application was held before a hearing examiner, and consumed 14 days between March 18 and May 22, 1952. In this hearing, in contrast with the prior proceedings reviewed by this Court, Motor Transit presented extensive evidence as to the public need for its motor carrier service in the territory involved in the application. The hearing examiner issued a recommended decision (R. 1–83), exceptions were filed, and oral argument was had before the entire Commission. On November 22, 1954, the Commission issued its report and order (R. 93–122) substantially granting Motor Transit's application, subject to the following conditions (R. 117):

> (1) that there may be attached from time to time the privileges granted herein such reasonable terms, conditions, and limitations as the public convenience and necessity may require, and
>
> (2) that all contractual arrangements between The Rock Island Motor Transit Company and the Chicago, Rock Island and Pacific Railroad Company shall be reported to us and shall be subject to revision, if and as we find it to be necessary in order that such arrangements shall be fair and equitable to the parties;

The plaintiffs' petition for reconsideration was denied by the Commission on July 6, 1955 (R. 122–123).

Following briefs and oral argument, the three-judge court, consisting of Circuit Judge Prettyman and District Judges Pine and Holtzoff, on January 11,

1956, rendered its unanimous opinion (R. 192–195) sustaining the Commission's order.

SUMMARY OF ARGUMENT

The Interstate Commerce Commission, pursuant to Section 207 (a) of the Interstate Commerce Act, authorized Rock Island Motor Transit Company, a wholly-owned subsidiary of the Chicago, Rock Island & Pacific Railroad Company, to perform the usual type of motor carrier service between Silvis, Illinois and Omaha, Nebraska, and numerous intermediate points, all of which points are on or near the railroad. In prior proceedings under Section 5 of the Act, arising out of Motor Transit's acquisition from existing motor carriers of operating rights to serve these points, the Commission had imposed upon Motor Transit conditions designed to insure that its motor carrier operations would be limited to service auxiliary to or supplemental of the train service of its rail parent. The Commission's power to impose these conditions was sustained by this Court in *United States* v. *Rock Island Motor Transit Co.*, 340 U. S. 419. In the instant proceeding, Motor Transit for the first time adduced evidence as to the public need for its motor carrier service without such restrictions. Thereafter, finding that the proposed unrestricted motor carrier operations by Motor Transit will not unduly restrain competition and that there is a public need for the proposed service which independent motor carriers are not providing, the Commission authorized Motor Transit to render ordinary motor carrier service to these points, subject to conditions

which will enable the Commission to impose in the future restrictions or conditions necessary for the protection of independent motor carriers.

The appellants contend that the Commission is precluded from authorizing Motor Transit to perform motor carrier operations which are not restricted to service which is auxiliary to or supplemental to the train service of its parent railroad, by the proviso of Section 5 (2) (b) that before a railroad or its affiliate purchases or otherwise acquires control of an existing motor carrier the Commission must find that "the proposed transaction * * * will enable such [railroad] to use service by motor vehicle to public advantage in its operations and will not unduly restrain competition."

I

The Commission's order in this case is based upon Section 207 (a) which authorizes the issuance of certificates of public convenience and necessity for new or additional motor carrier service where it finds the applicant to be fit, willing and able and that the proposed service is or will be required by the present or future public convenience and necessity. Section 207 (a) does not contain the limitations upon motor carrier operations by railroads which the proviso of Section 5 (2) (b) imposes where a railroad or its affiliate requires an existing motor carrier operation. However, recognizing that Section 5 (2) (b) and the National Transportation Policy embody a general Congressional policy against railroad monopolization of motor transportation, the Commission, in authorizing new motor carrier operations by a railroad under

Section 207 (a), restricts such operations to service auxiliary and supplemental to the rail service, as it does in acquisition cases under Section 5, except where there is an unusual or special need for such service without restrictions.

The legislative history of Sections 5 (2) (b) and 207 (a) contain no support for the appellants' contention that a railroad's motor carrier operations must be restricted under all circumstances to service on railroad bills of lading and at rail rates and, through key point restrictions, to a local and largely less-than-truckload service. The proviso of Section 5 (2) (b) originated in Section 213 (a) (1) of the Motor Carrier Act of 1935. The history of the 1935 legislation reveals that it was intended to prevent railroad monopolization of motor transportation, and that no one had a precise idea as to the extent to which railroads should be permitted to engage in motor carrier operations. There was no indication as to whether this purpose would be satisfied by limiting a railroad's motor service to points on or near the railroad, or whether such service should be further restricted.

Moreover, there is no suggestion in the legislative history that the proviso of Section 5 (2) (b), applicable by its terms to *acquisitions*, was to be read into Section 207 (a) as a limitation on the Commission's power to authorize new or additional service. Early in the administration of the Motor Carrier Act, the Commission held that what is now the proviso of Section 5 (2) (b) did apply to the issuance of certificates under Section 207 (a). With specific knowledge of

this interpretation, Congress, in amending that Act, dropped as too controversial, an amendment which would have written the proviso into Section 207 (a).

The Commission has never interpreted the proviso of Section 5 (2) (b) and Section 207 (a) as requiring that motor carrier operations by a railroad be limited in all circumstances to service auxiliary and supplemental to the rail service, e. g., on railroad bills of lading and at rail rates and subject to key point restrictions. Even in the early and leading Section 5 acquisition case of *Pennsylvania Truck Lines—Control—Barker Motor Freight,* 5 M. C. C. 9 (1937) in which the Commission began to develop the concept of "auxiliary and supplemental" service, it interpreted the Act as permitting it to omit or remove such restrictions in order to permit a needed transportation service which was not being performed by other carriers.

While the Commission may have held initially that the proviso of Section 5 (2) (b) had no bearing upon the determination of applications for certificates under Section 207 (a), it soon evolved the policy of imposing upon authorizations for railroads to perform new or additional motor carrier service the same auxiliary and supplemental service restrictions which it applied to railroad acquisitions of existing services. At the same time, it consistently held that it could authorize a railroad to perform ordinary or unrestricted motor carrier service to meet an unusual or special public need for service which other motor carriers were not providing.

The Commission's power to authorize a railroad to perform ordinary or unrestricted motor carrier service

to points on or near the railroad, at least where there is a special need for that service, is recognized implicitly by this Court's decisions in *Interstate Commerce Commission* v. *Parker,* 326 U. S. 60; *American Trucking Assns.* v. *United States,* 326 U. S. 77; *United States* v. *Rock Island Motor Transit Co.,* 340 U. S. 419; and *United States* v. *Texas & Pacific Motor Transport Co.,* 340 U. S. 450. These decisions hold that both in acquisition cases under Section 5 and in determining applications for certificates under Section 207 (a) the Commission is *empowered* to impose drastic restrictions to insure that a railroad's motor carrier service is auxiliary and supplemental to its rail service. The Court has never held that it must do so in all circumstances. Rather, it has recognized that Section 207 (a) does not contain the restrictions of Section 5 (2) (b), while sustaining the Commission in cases under Section 207 (a) in giving effect to the general Congressional policy against railroad monopolization of motor transportation.

In the *Rock Island* case, this Court pointed out that "The words 'auxiliary to or supplemental' are not taken from the Act. There is no such specific limitation for railroad operation of motor carriers." (340 U. S., at 437). Noting that the Commission had in some cases omitted or varied the auxiliary and supplemental conditions so as to meet a public need for transportation, the Court held that "Those divergencies, however, are an exercise of the discretionary and supervisory power with which Congress has endowed the Commission." (340 U. S., at 442). Thus, this

> they can be used to advantage in combination with railroad service and I hope to see the time when the railroads will utilize these opportunities fully.

Clearly, Commissioner Eastman was urging further experimentation in railroad use of motor vehicles.

Other witnesses in these hearings urged in general terms only that railroads should not be allowed to monopolize motor transportation. Thus, witness Blaine stated (p. 337) that

> We are opposed to section 313, which is the merger or consolidation provision of this bill, for this reason:
>
> Under the provisions of that section the railroads can acquire all of your motor trucks and your motor busses and thus restore to them the monopoly which they so long enjoyed. Such a law at this time is contrary to our experience with respect to the past. Up until 1914 the railroads of this country could also engage in the operation of boats in competition with the railroads on the rivers and harbors and lakes but Congress, in its wisdom, in 1914 enacted paragraph 19 of section 5 of the Interstate Commerce Act which, briefly stated, prohibits a railroad operating a water vessel in competition with its rail lines. Yet, here it is proposed to write into the Motor Vehicle Act a law contrary to the last action of Congress.

And another witness (Fulbright) suggested (p. 376) that

> "if you are going to have any provision for acquisition of control, it ought to be particularly specified in there that there could not be

acquisition of control when that acquisition would substantially destroy existing competition."

Both committee reports (Sen. Rep. 482 and H. Rep. 1645, 74th Cong., 1st Sess.) made no reference to the subject of railroad operation of motor carriers.

However, as S. 1629 (which was finally enacted as Part II of the Interstate Commerce Act) was reported by the Senate Committee, Section 213 (a) (1) contained the following added language:

> *Provided, however,* That if a carrier other than a motor carrier is an applicant, or any person which is controlled by such a carrier other than a motor carrier or affiliated therewith within the meaning of section 5 (8) of part I, the Commission shall not enter such an order unless it finds that the transaction proposed will promote the public interest by enabling such carrier other than a motor carrier to use service by motor vehicle to public advantage in its operations and will not unduly restrain competition (79th Cong. Rec. 5666).

Senator Wheeler explained the Committee amendment as follows:

> Carriers by rail, express, or water are permitted to consolidate or merge with motor carriers or to obtain control in any of the ways indicated above, but only on a showing that "the transaction proposed will promote the public interest and enable such a carrier other than a motor carrier to use service by motor vehicle to public advantage in its operations and will not unduly restrain competition." With this limitation, it will be possible for the Com-

Court has already recognized that the proviso of Section 5 (2) (b) is not to be read into Section 207 (a) as a rigid limitation, that it does not embody the specific set of restrictions for which appellants contend, and that it does not preclude the Commission from authorizing ordinary and unrestricted motor carrier service by a railroad to points on or near the railroad to satisfy a public need for transportation service which other carriers are not providing.

II

The Commission held in this case that its general policy of imposing auxiliary and supplemental restrictions upon grants of motor carrier operating authority to railroads "should be relaxed only where the circumstances clearly establish (1) that the grant of authority has not resulted and probably will not result in the undue restraint of competition, and (2) that the public interest requires the proposed operation, which the authorized independent motor carriers have not furnished, except where it suited their convenience." The Commission's findings that these conditions exist in the present case are based upon substantial evidence.

The Commission's conclusion that unrestricted motor carrier operations by Motor Transit over the routes in question would not unduly restrain competition, is based largely upon the record of its past operations, rather than upon prophecy. Motor Transit conducted unrestricted motor carrier operations over the White Line route for 13 years prior to 1951 and over the Frederickson Line route for

seven years prior to 1951. The Commission found that during those years Motor Transit's independent motor carrier competitors prospered greatly, from which it concluded that "the operations of applicant have not unduly restrained competition." Taking into account the appellants' contention that Motor Transit might be unfairly subsidized by its parent railroad, the Commission retained the condition, sustained by this Court in the *Rock Island* case, that contractual arrangements between Motor Transit and the railroad be reported to and be subject to revision by the Commission. In addition, for the express purpose of protecting independent motor carriers from injury due to material changes in their relationship to Motor Transit, the Commission reserved the power to impose further conditions and limitations upon the authority granted to Motor Transit.

As to the public need for unrestricted motor carrier service by Motor Transit, the Commission found that "Applicant is the only carrier that for a considerable number of years has maintained daily (generally at least 5 days a week) scheduled peddle operations over the entire White Line and Frederickson Line routes regardless of the volume of traffic available for movement in such operations." It found from the testimony of many shippers that "public convenience and necessity require the proposed less-than-truckload peddle operations." It found that since Motor Transit possessed exclusive intrastate rights over these routes, other carriers could not perform such a service with interstate traffic only. It further concluded that while the proof of public need for truckload service

by Motor Transit was not as convincing, it should be permitted to share in the more profitable truckload traffic as well as to perform the expensive peddle service. The Commission's action was a rational exercise of the broad discretion conferred upon it by Congress to determine what transportation service is required by the public convenience and necessity. *Interstate Commerce Commission* v. *Parker*, 326 U. S. 60, 65.

ARGUMENT

I

The Commission is empowered under Section 207 (a) to authorize a railroad-controlled motor carrier to perform ordinary motor-carrier service to points on or near the line of the railroad, at least in the special circumstances of this case

Preliminary analysis

Since the appellants contend that the Commission's order makes possible railroad domination of motor transportation, it is important to point out the precise scope and effect of the Commission's action. In 1938 and 1944, the Commission, acting under Section 5 of the Interstate Commerce Act, authorized Rock Island Motor Transit to acquire by purchase the operating rights and properties embraced in the White Line and Frederickson routes, respectively. In authorizing acquisitions of the White Line properties, the Commission required Motor Transit to abandon White's operating rights other than common carrier rights between Omaha and Chicago (and two branch routes to Muscatine and Cedar Rapids), and further provided that Motor Transit could not "render service from or to, or interchange traffic at, any point other than a sta-

tion on the lines of" the Rock Island railroad (5 M. C. C., at 458). Thus, beginning in 1938, the Commission restricted Motor Transit to serving points on the White Line route which were already stations on the Rock Island railroad. Similarly, in 1944, the Commission authorized Motor Transit to acquire by purchase the Frederickson operating rights between Atlantic, Iowa, and Omaha, thereby providing Motor Transit with a second route via Avoca and Neola between those points, together with rights between Atlantic and Oakland and Harlan and Oakland to serve points which are on or near the line of the Rock Island railroad. In 1949, the Commission issued an order further restricting Motor Transit's operations on the White Line and Frederickson routes by imposing the five conditions sustained by this Court in *United States* v. *Rock Island Motor Transit Co., supra.* For present purposes, these conditions may be summarized as (1) restricting its motor carrier operations to movements at rail rates and on rail bills of lading, thus precluding Motor Transit from entering into joint rates with other motor carriers, (2) restricting its service (as before) to points which are stations on the Rock Island railroad, (3) prohibiting it from carrying shipments between any of the following points, or through, or to, or from, more than one of such points: Omaha, Des Moines, and collectively Davenport and Bettendorf, Iowa, and Rock Island, Moline, and East Moline, Ill., thereby, in practical effect, limiting Motor Transit's motor carrier service to carrying rail-billed shipments, in large part less-than-truckload, between one of these key

points and the smaller points intermediate to the next key point.

In the instant case, the Commission, acting under Section 207 (a), has authorized Motor Transit to render motor carrier service without these restrictions *but only to the same points on or near the line of the Rock Island railroad.*

The appellants contend that when a railroad or railroad affiliate applies for a motor carrier certificate of public convenience and necessity under Section 207 of the Interstate Commerce Act, it may be granted only in accordance with the requirement of Section 5 (2) (b) that such transaction will enable the railroad "to use service by motor vehicle to public advantage in its operations and will not unduly restrain competition." They assert that this condition of Section 5 (2) (b) must be read into Section 207 (a) and that this means that the Commission's grant of a certificate to Rock Island Motor Transit Company was required to contain conditions (such as those which were involved in *United States* v. *Rock Island Motor Transit Co., supra*), which would limit its motor carrier operations not only to points on or near the railroad but also to a type of service which would be made "auxiliary and supplemental" to the rail service by the key point and rail rate and billing restrictions described above.

We contend that when a rail carrier or its affiliate applies for a motor carrier certificate under Section 207 (a), the limitations of Section 5 (2) (b) applicable to *acquisitions* of existing motor carriers by a railroad or its affiliate do not apply as a rigid restriction upon

the authorization of new or additional motor carrier service. However, since the Commission has recognized in Section 5 (2) (b) and in the National Transportation Policy a general Congressional purpose to prevent railroad monopolization of motor transportation, it has given railroads authority under Section 207 (a) to conduct ordinary motor carrier operations only in "special circumstances," i. e., only to meet an unusual public need for transportation. In any event, whether the proviso of Section 5 (2) (b) is regarded as fully applicable to proceedings under Section 207 (a) or, as the court below held, as a general policy to be taken into account by the Commission, it is not offended where, as here, the Commission seeks to meet special transportation needs by authorizing a railroad controlled motor carrier to furnish ordinary motor carrier service only to points on or near the rail line.

Thus, the precise issue here is whether in such circumstances the Commission may issue a certificate of public convenience and necessity to a railroad affiliate without restricting the authorized motor carrier operations to service auxiliary and supplemental to rail service, while reserving the right to impose upon such motor carrier operations in the future such limitations as the public convenience and necessity may require, and to regulate the contractual relations between such carrier and its railroad parent. In the instant case, the Commission has held, and the court below agreed, that nothing in the Act precludes it from authorizing such motor service to points on or near the railroad "where the circumstances clearly

establish (1) that the grant of authority has not resulted and probably will not result in the undue restraint of competition, and (2) that the public interest requires the proposed operation, which the authorized independent motor carriers have not furnished, except where it suited their convenience" (R. 108). We submit that this view is supported by the language, history and purpose of Sections 5 and 207, by the Commission's consistent administrative construction, and by the decisions of this Court.

A. By its terms, the proviso of Section 5 (2) (b) applies only to railroad acquisitions of existing motor carriers, and does not restrict the issuance of certificates under Section 207 (a) authorizing new motor carrier service

The Commission's order in this case was based upon Sections 207 (a) and 208 of the Interstate Commerce Act. Section 207 (a) provides that "Subject to section 210", a certificate authorizing motor carrier operations shall be issued "to *any* qualified applicant" if it is found that the applicant is fit, willing, and able to perform the proposed service and that the proposed service "is or will be required by the present or future public convenience and necessity." Section 208 generally empowers the Commission to include in such a certificate "at the time of issuance and from time to time thereafter" conditions and limitations required by the public convenience and necessity.

It is significant that Section 207 (a) contains no provision requiring the imposition of unusual restrictions upon certificates issued to motor carrier subsidiaries of railroads. Applying the rule that statutes mean what they say, this fact alone should be persuasive here.

Moreover, Section 207 (a) begins with the words "Subject to section 210." This compels the inference that Congress has thereby enumerated the other provisions of the Act which it desires to override or limit the powers granted in Section 207. This normal inference is heavily reinforced when it is noted that Section 210 prohibits a contract motor carrier or its affiliate from holding a common carrier certificate under Section 207, unless the Commission approves such dual operation as being in the public interest. That is, at the very beginning of Section 207, Congress enumerated the types of dual transportation operations which it did not wish to be authorized without restriction in the administration of Section 207. Looking only to the structure of these sections and applying ordinary rules of interpretation, it can only be concluded that by not similarly referring to the proviso in Section 5 (2) (b), Congress did not intend to write its limitation into Section 207.[2] And, as noted hereafter, Congress did not do so later when it was specifically informed that the Commission had not been applying rigidly the proviso of Section 5 (2) (b) (or its predecessor Section 213 (a) (1)), in administering Section 207 (a). (*Infra*, pp. 33–37.)

It is argued by the appellants that if the limitations of Section 5 (2) (b) are not read into Section 207 (a)

[2] *Brown* v. *Maryland*, 12 Wheaton 419, 438; *Bend* v. *Hoyt*, 13 Peters 263, 272; *United States* v. *Dickson*, 15 Peters 141, 165; *Schlemmer* v. *Buffalo R. & P. Ry.*, 205 U. S. 1, 10; *American Express Co.* v. *United States*, 212 U. S. 522, 534; *Hopkins* v. *United States*, 235 Fed. 95, 98; *Rybolt* v. *Jarrett*, 112 F. 2d 642, 645 (CA 4, 1940).

the policy of Section 5 (2) (b) will be completely thwarted. To the contrary, we submit that Section 5 (2) (b) and Section 207 (a) embody different Congressional objectives which the Commission has reconciled correctly.

If a railroad or its affiliate seeks to purchase or otherwise acquire control of an existing motor carrier, it must obtain the Commission's approval under Section 5. Under Section 5 (2) (b) such approval by the Commission must be predicated upon its findings that the proposed transaction (1) will be consistent with the public interest, (2) will enable such rail carrier to use service by motor carrier to public advantage in its operations, and (3) will not unduly restrain competition. These conditions of Section 5 (2) (b) are essentially anti-monopoly provisions designed to assure that the railroads do not use their financial resources to swallow up by acquisitions and mergers the motor carrier industry. (See *infra*, pp. 27–31.)

In contrast, while the proviso of Section 5 (2) (b) deals with acquisitions of existing motor carriers, Section 207 (a) governs the issuance of certificates of public convenience and necessity for new or additional motor carrier service. The first requirement of Section 207 (a) is that the applicant for such a certificate be fit, willing, and able properly to perform the proposed service. In the instant case, the appellants have not challenged the fitness, willingness, or ability of Rock Island Motor Transit Company to perform the motor carrier service which it proposes. The second and only other condition of Section 207

is that the proposed motor carrier service, to the extent authorized by the Commission, "is or will be required by the present or future public convenience or necessity."

In brief, Section 5 (2) (b) prescribes for railroad *acquisitions* of motor carriers an essentially anti-monopoly test, i. e., that the acquisition will enable the railroad to use service by motor carrier to public advantage in its operations, and will not unduly restrain competition. Section 207, on the other hand, places its emphasis on the public convenience and necessity, i. e., the public need for new or additional transportation service.

It is clear why Congress has not written into Section 207 the anti-monopoly provisions of Section 5 (2) (b). Where a railroad or its affiliate acquires by purchase or merger an existing motor carrier, there is lost the actual or potential competition between the railroad and the previously independent motor carrier. However, where a railroad or its affiliate undertakes to commence or expand its own motor carrier service, it can only do so in *added* competition with independent motor carriers already in the field. This economic distinction was pointed out to Congress in 1938 by a representative of the railroads in opposition to the Shipstead amendment which would have repeated in Section 207 the proviso of the present Section 5 (2) (b), in accordance with the plaintiffs' present contention. *Hearings before the Subcommittee of Senate Committee on Interstate Commerce on S. 3606, 75th Cong., 3d Sess., pp. 157, 164.* (See, *infra*, p. 35.)

Again, it is urged by appellants that under a construction of Section 207 which permits railroads to engage in unrestricted motor carrier operations, their superior financial resources, including the use of railroad terminal facilities and personnel, inevitably will enable them to eliminate the independent motor carriers. The Commission has met this possibility in two ways: first, by authorizing such unrestricted motor carrier operations by a railroad or its affiliate only in "exceptional circumstances", i. e., to meet an unsatisfied public need for transportation at points on or near the railroad without producing an undue restraint of competition, and second, as in the instant case, by subjecting such a grant of authority to such future conditions as may be required by the public convenience and necessity. And, in the instant case, the Commission specifically considered the possibility that Motor Transit might be unfairly subsidized by its rail parent (R. 104) and guarded against it by requiring that contractual arrangements between Motor Transit and its parent be reported to the Commission and subject to revision by the Commission.

This Court has recognized that Congressional directives against rail domination of motor carriage and to satisfy the public need for transportation "must frequently produce overlapping aims." *Interstate Commerce Commission* v. *Parker*, 326 U. S. 60, 66. The Commission has consistently recognized its duty to reconcile and balance these statutory purposes to achieve the basic national objective of an adequate, diversified and healthy transportation sys-

tem. While Section 207 (a), authorizing the issuance of certificates of public convenience and necessity for new or additional motor carrier service, does not contain the express anti-railroad control provisions of Section 5 (2) (b), the Commission has considered that Congress did not intend Section 207 to be an unlimited opportunity for railroad domination of motor transportation, thus thwarting both the policy proviso of Section 5 (2) (b) and the National Transportation Policy. If, in administering Section 207, the Commission ignored the purpose of Section 5 (2) (b) and the National Transportation Policy, it would mean that a railroad which acquired a motor carrier subject to the limitations of Section 5 (2) (b), could turn around and seek an authorization for additional motor carrier service under Section 207 without regard to the policy of Section 5 (2) (b).

Accordingly, as pointed out later in this brief, in issuing to railroads or their affiliates certificates for new or additional motor carrier service under Section 207, the Commission has applied the general policy of Section 5 (2) (b) by restricting such motor carrier operations to service auxiliary and supplementary to the rail service, unless there existed an unusual or special public need for ordinary motor carrier service which is not being performed by the authorized independent motor carriers. Moreover, in the instant case, the ordinary type of motor carrier service which Motor Transit has been authorized to perform is still restricted to points which are stations on the Rock Island Railroad, plus a few small points near the railroad.

B. The legislative history contains no indication that the proviso of Section 5 (2) (b) was intended (1) to restrict a railroad's motor carrier operations to less-than-truckload movements to smaller points on rail billing and at rail rates, or (2) to be applied as a rigid limitation upon Section 207 (a)

As noted above, the appellants' specific contention here is that the proviso of Section 5 (2) (b) requires the Commission in all circumstances to restrict a railroad's motor carrier operations to largely less-than-truckload movements to smaller points and on railroad bills of lading and at rail rates (thereby, as a practical matter, precluding it from interchanging freight with other motor carriers or participating in joint motor rates). Similarly, they urge this Court to reverse its decision in *Interstate Commerce Commission* v. *Parker,* 326 U. S. 60, and to hold that the proviso of Section 5 (2) (b) requires that a railroad must be restricted in its motor carrier operations to freight which has a prior or subsequent movement by rail. And they contend that the proviso, so interpreted, applies as a rigid restriction, regardless of circumstances, upon the authorization of new or additional service under Section 207. These contentions find no support in the legislative history of the proviso in Section 5 (formerly Section 213 (a) (1)) and of Section 207.

The original Motor Carrier Act of 1935. The principal conclusion which can be drawn from the legislative history of the Motor Carrier Act of 1935 is that no one concerned had any precise idea as to the extent to which railroads should be allowed to engage in motor transportation. In 1928, a published report of the Interstate Commerce Commission (*Motor Bus*

and Motor Truck Operation, 140 I. C. C. 685, 720) indicated that the railroads were making practically no use of truck transportation. In 1933, five years later, another study by the Commission revealed active experimentation in motor transportation by railroads. *Coordination of Motor Transportation,* 182 I. C. C. 263, 375. As Section 213 appeared in H. R. 5262 and S. 1629, both 74th Congress, 1st Sess. (1935), which were the subject of hearings before the House Committee on Interstate and Foreign Commerce and the Senate Committee on Interstate Commerce, it simply prohibited mergers and acquisitions of control without the prior approval of the Commission based upon a finding that "the public interest will be promoted by the transactions proposed." Railroad operation of motor carriers received little discussion at these 1935 hearings which immediately preceded enactment of the Motor Carrier Act. Thus, in the February 1935 hearings before the House Committee (entitled Regulation of Interstate Motor Carriers), Commissioner Eastman made the following general statement (p. 46):

> I hope and expect to see the railroads utilize these motor vehicles in their own operations to a much greater extent than they now do. They are doing it to a considerable extent; they operate some; they have abandoned branch lines and they are operating busses instead of trains in some cases. They are utilizing motor vehicles in their terminal operations and they have used them as a substitute for way freight service, in some cases. My own view is that there will be found many more ways where

> mission *to allow acquisitions* which will make for coordinated or more economical service and at the same time to protect the public against the monopolization of highway carriage by rail, express, or other interests [Emphasis added] (79th Cong. Rec. 5655 [3]).

In short, the complaints and fears that led to the insertion of the proviso in Section 213 (a) related only to unlimited railroad *acquisition* of existing motor carriers, and to the destruction of competition by such *acquisitions*. No attempt was made by anyone to define the clause in Section 213 (now the proviso in Section 5 (2) (b)) that such acquired motor carrier operations "will enable such carrier [other than a motor carrier] to use service by motor vehicle to public advantage in its operations." Clearly, it meant that railroads were not, by acquisition of existing motor carriers, to engage in motor carrier transportation wholly unrelated to their previous transportation operations. Specifically, the extent to which a railroad could render motor carrier service to points which it already served by rail was nowhere defined or

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[3] In the later House debate, Representative Sadowski characterized Section 213 in the following terms:

Section 213 provides that *the Commission shall control the consolidation, merger, and acquisition of control of motor carriers*. I will say in this respect that it is the intent, and it is important to the welfare and progress of the motor-carrier industry, *that the acquisition of control of the carriers* be regulated by the Commission so that the control does not get into the hands of other competing forms of transportation, who might use the control as a means to strangle, curtail, or hinder progress in highway transportation for the benefit of the other competing transportation [Emphasis added] (79th Cong. Rec. 12206).

discussed. There was not even a suggestion that, as appellants contend, a railroad's motor carrier operations must be limited to local less-than-truckload shipments on rail billing and at rail rates.

In any event, *the legislative history contains no suggestion that the proviso in Section 213 (a) (1) was to be read into Section 207 as a rigid limitation on the Commission's power to issue certificates of public convenience and necessity for new motor service.*

The 1938 amendments. In 1938, Congress, with specific knowledge that the Commission was not applying the proviso of Section 213 (a) (1) as a rigid limitation in cases under Section 207, refused to write the proviso into Section 207.

Shortly after enactment of the Motor Carrier Act, the Commission decided *Pennsylvania Truck Lines, Inc.—Control—Barker,* 1 M. C. C. 101 (1936), containing what the motor carrier appellants describe (App. br. in No. 6, p. 19) as "the classic statement of the rationale underlying the separation of rail and truck ownership or control." That case involved an application under Section 213 (now Section 5) for approval of a purchase of an independent motor carrier by a railroad. It marked the beginning of the development of the policy under which (except in a few cases involving special circumstances) the Commission has given effect to the objective of the proviso of Section 5 by approving *acquisitions* of motor carriers by railroads or their affiliates only upon conditions that in one way or another confine the motor carrier operations to service "auxiliary and supple-

mental" to the railroad operations. As we point out elsewhere (*infra,* p. 38), even in this early and leading *Barker* case, the Commission added that it would relax such conditions to meet shippers' need for service.

However, in 1937, the Commission decided *St. Andrews Bay Transportation Company Extension of Operations,* 3 M. C. C. 711 (1937), which involved an application under Section 207 by a railroad-controlled motor carrier for a certificate authorizing an extension of its existing motor carrier operations carried on pursuant to a certificate issued under the grandfather clause of the Motor Carrier Act. In authorizing the extension, the Commission rejected the contention of protesting rail carriers that the proviso of Section 213 was controlling, in the following language (at p. 715):

> The situation presented in the *Barker* case differs from that here presented. The application in that case was filed under section 213 of the act, which provides with respect to consolidations, mergers, and acquisitions of control that if the applicant be a carrier other than a motor carrier, or a company controlled by or affiliated with such a carrier other than a motor carrier, we shall not give our approval unless we find "that the transaction proposed will promote the public interest by enabling such carrier other than a motor carrier to use service by motor vehicle to public advantage in its operations and will not unduly restrain competition." The application herein, on the other hand, is for a certificate of public convenience and necessity authorizing institution of a new

> operation and was filed under section 207 (a) of the act, which provides that, subject to section 210, a certificate shall be issued to any qualified applicant therefor, if it be found that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of the act and our requirements, rules, and regulations thereunder, and that the proposed service is or will be required by the present or future public convenience and necessity.

Thus, in 1937, the Commission squarely held that the proviso of Section 213 (a) (1) was not to be read into Section 207 as an absolute limitation on the issuance of certificates of public convenience and necessity to railroads or their affiliates.

During the Congressional consideration of the 1938 amendments to the Motor Carrier Act, the *Barker* and *St. Andrews Bay* decisions were reviewed specifically. Thus, during the hearings before the Senate Subcommittee on Interstate Commerce on S. 3606, 75th Cong., 3rd Sess., Senator Shipstead proposed an amendment which would have repeated in Section 207 the proviso of Section 213 (a) (1). Senator Shipstead explained his amendment as follows (Hearings, ibid, p. 26):

> * * * The original act permits railroads under certain conditions to operate and to acquire and operate busses, as auxiliary to, or supplementary to, their regular service. I do not know that there is any objection to that. But it appeared clearly the intention of Congress that they should be prohibited from acquiring or initiating motor truck or bus service under certain other conditions. And the ques-

> tion arose after two decisions by the Motor Carrier Division of the Interstate Commerce Commission, where it appeared to many people that there was a conflict in that Division as to the intention of Congress in respect to that matter. *Those two cases were the Pennsylvania Truck Line case and the St. Andrews Bay Transportation Co. case.* [Emphasis added.]

During the same hearings, Interstate Commerce Commissioner Eastman stated that

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> In fact, so far as I personally am concerned, I do not want to pass on issues in advance; but if I had to pass on the issue now, I should say that in administering the provisions of Section 207, it would be the duty of the Commission to read the act as a whole and to apply the same policy with respect to the extension of operations of a railroad-controlled motor carrier as is provided by the proviso of Section 213 (*Ibid.* 27, 30).

Commissioner Eastman also submitted a letter on behalf of Commissioners Lee, Rogers and himself (who comprised the Commission's Division 5 which had decided the *St. Andrews Bay Transportation Company* case) stating that they did not oppose the Shipstead amendment. However, this letter states that it had not been referred to the full Commission (*Ibid.* pp. 30–31).

Moreover, both Senator Johnson and Commissioner Eastman warned that the Shipstead amendment would add controversy to a bill on which there was substantially unanimous agreement (*Ibid.* 29, 30). This prediction was realized when later in the hearings a rep-

resentative of American Trucking Associations, Inc., strongly supported the Shipstead amendment (*Ibid.* pp. 128–129), while it was opposed with equal vigor by a representative of the Association of American Railroads (*Ibid.* pp. 157–164), who pointed out that Commissioner Eastman had consulted only two other members of the Commission (*Ibid.* p. 158).

Senator Shipstead withdrew his amendment, stating that (*Ibid.* 141–142):

> And it is quite evident that, even with the controversy aroused here, it would be, if not a waste of time, futile to try to pass my amendment at this session of Congress. On the other hand, I have come to the conclusion it is not necessary to press it at this time.

However, it is clear that the Senate Committee recognized that the Shipstead amendment had been withdrawn because it was controversial—rather than because it was unnecessary under existing law. Thus, the report of the subcommittee which was signed by Senator Shipstead and adopted by the full Senate Committee, contains the following explanation (Sen. Rep. 1650, 75th Cong. 3rd Sess. p. 3):

> Senator Shipstead introduced a clarifying amendment to S. 3606 which, he stated, is designed to give effect to the intent of Congress that the same showing be made by a carrier other than a motor carrier applying under section 207 (a) of the Motor Carrier Act, 1935, to obtain a certificate of public convenience and necessity as is required by such carrier to obtain approval of the purchase or acquisition of a motor carrier. At the hearings upon S. 3606,

following the testimony of Commissioner Eastman that the Commission had no objection to the amendment, that in his view the present act should be interpreted to give effect to the purpose of the clarifying amendment, and that if the Shipstead amendment was pressed at this time it might delay the other amendments proposed by the Commission, Senator Shipstead withdrew his amendment.

* * * While several of these amendments seem to have merit, none of them has been approved by your subcommittee or recommended for adoption for the reasons which actuated Senator Shipstead in the withdrawal of his amendment, that is, that they are largely controversial and might delay or defeat the prompt enactment of the procedural and clarifying amendments which are of importance to the Interstate Commerce Commission in attempting to perform the vast task before it in the regulation of motor carriers.

In brief, Congress was specifically aware in 1938 that the Commission was not applying the limitation on acquisitions in the proviso of Section 213 (a) (1) in determining application by railroads or their affiliates for motor carrier certificates under Section 207. With this knowledge, Senator Shipstead's amendment, which was designed to reverse the Commission's conclusion as stated in the *St. Andrews Bay Transportation Co.* case, was dropped as too controversial.

The Transportation Act of 1940. In 1940, the Interstate Commerce Act, including the Motor Carrier Act, was subjected to a general overhaul and rearrangement by the Transportation Act of 1940. Not-

withstanding the 1938 controversy over the proper relationship between Section 213 (a) (1) and 207, the 1940 Act merely transferred the proviso of Section 213 (a) (1) to Section 5 (2) (b) of the present Act, while leaving Section 207 (a) unchanged in any respect. Indeed, between the *St. Andrews Bay Transportation* case, *supra*, and February 1940, the Commission had at least twice reiterated its view that Section 213 was not controlling in cases under Section 207. *Interstate Transit Lines Extension—Verdon, Nebraska*, 10 M. C. C. 665, 667; *Santa Fe Trail Stages, Inc. Common Carrier Application*, 21 M. C. C. 725, 753.

In brief, with specific knowledge of the issue, Congress declined to avail itself of opportunities in 1938 and 1940 to write the proviso into Section 207. This is persuasive evidence that the Commission has correctly interpreted the will of Congress. *United States v. American Trucking Associations*, 310 U. S. 534, 549–550. Specifically, we submit that this history shows that in 1938 and 1940, as in 1935, Congress was not ready to specify for all times and circumstances the precise motor carrier operations which railroads should be permitted to perform in the public interest. It demonstrates the validity of this Court's conclusion in *United States* v. *Rock Island Motor Transit Co.*, 340 U. S., at 442, that "Those divergencies, however, are an exercise of the discretionary and supervisory power with which Congress has endowed the Commission. It is because Congress could not deal with the multitudinous and variable situations which arise that the Commission was given authority to adjust services within the limits of the Motor Carrier Act."

C. The Commission has consistently interpreted the Act as empowering it, in special circumstances, to issue to a rail-controlled motor carrier a certificate under Section 207 (a) authorizing ordinary or unrestricted motor service to points on or near the railroad

The Commission has never construed the proviso of Section 5 (2) (b) and Section 207 as rigidly restricting railroad-controlled motor carrier operations to service which is "auxiliary and supplemental" to the railroad service, e. g., as the appellants insist, to serve on rail billing and at rail rates and subject to key point restrictions.

In the early and leading Section 5 acquisition case of *Pennsylvania Truck Lines, Inc.—Control—Barker Motor Freight, Inc.*, (report on reconsideration) 5 M. C. C. (1937) 9, 11–12, the Commission restricted the rail-controlled motor carrier service to points which were stations on the railroad, and added that

> Approved operations are those which are auxiliary or supplementary to train service. Except as hereinafter indicated, nonapproved operations are those which otherwise compete with the railroad itself, those which compete with an established motor carrier, or which invade to a substantial degree a territory already adequately served by another rail carrier.

However, in the same report (at p. 14), the Commission specifically stated that

> Should the restriction prohibiting service to points which are not Pennsylvania stations make it impracticable or uneconomical to operate over any route, steps may be taken to obtain modification of the terms of the authority granted herein.

and that

> Nor do our conclusions overlook the interests of the shipping public along the routes here considered. If as a result of proceedings initiated by shippers it is shown, after full hearing, that existing transportation facilites are inadequate or otherwise unsatisfactory at a point in connection with which service is prohibited under the terms of the order herein, such evidence may be a basis for our removing the restriction in the pertinent certificate and ordering the present applicants to render service to that point.

The concept of service "auxiliary to and supplemental of" rail service was further defined in *Texas & Pacific Motor Transport Co. Common Carrier Application*, 41 M. C. C. (1943) 721, 726, as follows:

> Condition 1 limits the character of service to be performed by the petitioner to that which is auxiliary to or supplemental of the rail service of the railway. It limits the service to be performed by truck to the transportation of the rail traffic of the railway. It permits the public to receive an improved rail service through the use of trucks instead of trains as a means of fulfilling the railway's undertaking to transport. * * * Condition 1 permits all-motor movements in the handling of rail traffic at railroad rates and on railroad bills of lading. To and from certain points on segments of the rail lines, the improved service was to be accomplished by performing the movements partly by train and partly by motor vehicle, an auxiliary or supplemental service coordinated with the train service, hence condition 3. Since

> petitioner's certificates limit the service to be performed to that which is auxiliary to or supplemental of the rail service of the railway, it is without authority to engage in operations unconnected with the rail service and, accordingly, may not properly be a party to tariffs containing all-motor or joint rates, nor participate in a directory providing for the substitution of train service for motor-vehicle service at its option.

Notwithstanding this detailed emphasis on the restrictions to be placed upon rail-controlled motor carrier operations, the Commission, even in acquisition cases under Section 5, has refrained from imposing the auxiliary and supplemental condition where there was a need for unrestricted motor service to points on the railroad (or even off it) which other motor carriers could not or would not furnish. *Pacific Motor Trucking Co.—Purchase—Lowinel Trucking Co.*, 60 M. C. C. 373 (1954).

As noted above, in the *St. Andrews Bay Transportation Co.* case, the Commission used broad language suggesting that the proviso of Section 213 (now in Section 5 (2) (b)) was entirely inapplicable to the determination under Section 207 of applications by railroads or their affiliates for certificates of public convenience and necessity authorizing new or additional motor carrier service. However, in that and in succeeding cases under Section 207 the Commission emphasized the public need for the new and additional motor carrier service to be performed by the railroad-controlled motor carrier applicant. Similarly, in *In-*

terstate Transit Lines Extension—Verdon, Nebraska, 10 M. C. C. 665, the Commission, after citing the *St. Andrews Bay Transportation Co.* case, again emphasized the public need for adequate service in rejecting the objection of a competing rail carrier based upon the *Barker* case, and issued to a railroad-controlled motor carrier a certificate under Section 207 not restricted to service auxiliary and supplemental to the rail service. Similarly, in *Santa Fe Trail Stages, Inc., Common Carrier Application,* 21 M. C. C. 725, 753 (1940), involving an application under Section 207 for an extension of service by a railroad-controlled motor carrier, the Commission stated that

> * * * protestants also urge that approval of the considered extensions would be contrary to the principle announced in *Pennsylvania Truck Lines, Inc.—Control—Barker M. Frt.,* 1 M. C. C. 101, 5 M. C. C. 9 and 49, otherwise known as the *Barker* case. Therein we approved the acquisition of a motortruck line by a railroad truck subsidiary, but conditioned our authorization to exclude the privilege of rendering service from or to, or interchanging traffic at, any point not a station on the railroad. While it may be conceded that the applicant herein serves points not served by the Santa Fe Railway and that to some extent its extensions do not strictly parallel the Santa Fe rails, we are of the opinion that the principle there announced has no application in the instant proceeding, wherein the controlling issue is whether the public needs the service proposed, and not, as in a proceeding under section 213, the propriety of permitting a rail carrier

to take over an existing and competing motor-carrier service.

In *Burlington Transportation Co. Extension—Council Bluffs,* 28 M. C. C. 783, the Commission in authorizing an extension of motor carrier service under Section 207 by a railroad-controlled motor carrier, again distinguished the *Barker* case as involving an acquisition (citing *St. Andrews Bay Transportation Co.* and *Interstate Transit Lines Extension, supra*) and emphasized that only the applicant's proposed service would satisfy a public need for transportation.

In *Rock Island Motor Transit Co. Extension—Wellman, Iowa,* 31 M. C. C. 643, the full Commission in removing auxiliary and supplemental service conditions which Division 5 had imposed in authorizing an extension of service under Section 207 by a railroad-controlled motor carrier, stated (p. 645):

> The fact that applicant is a rail subsidiary is unimportant. The proposed operation is limited to points served by the parent company which are in need of a regular-route common-carrier service in the transportation of general commodities irrespective of the rail service which includes service at several other points on the branch line. It will neither invade territory of other rail lines, endanger or impair the operations of existing motor carriers, nor eliminate the necessity for way-freight train service over the branch line. We are of the opinion that the authority requested should be granted without restriction. * * *.

In *Texas & Pac. Motor Transport Co. Extension.—Point Blue, La.,* 47 M. C. C. 425, 427, the Commission

issued a certificate under Section 207 authorizing a railroad-controlled motor carrier to provide motor carrier service for two towns which had been points on a recently abandoned branch line of the railroad. Although motor carrier service to these points could not be regarded as auxiliary or supplemental to rail service, the Commission noted that

> Businesses have been established in reliance upon transportation furnished by the railway and it should be permitted to continue supplying service through its motor affiliate in the absence of any adequate service by any other carrier. In these circumstances, a grant to applicant of unrestricted authority to serve the two considered points is justified notwithstanding its control by the railway.

See also *Santa Fe Trail Transportation Co. Extension—Joplin,* 44 M. C. C. 474. And see also *Burlington Truck Lines, Inc., Extension—Iowa,* 48 M. C. C. 516 (1948) in which the Commission noting that "We have, on occasion, granted unrestricted authority to rail applicants if warranted by special circumstances," authorized unrestricted service between certain points by a railroad-controlled motor carrier where there was a need for service not furnished by any other carrier.[4]

Simultaneously with the line of decisions referred to above, the Commission developed and applied the

[4] It should be noted that in a number of the cases just discussed, the Commission reversed its Division 5 which, in 1938, had advised the Senate Committee on Interstate Commerce that it (the Division) had no objection to the Shipstead amendment.

corresponding general policy that in the absence of special circumstances it would impose upon grants of motor carrier authority under Section 207 (a) to railroad-controlled motor carriers conditions insuring that such service would be auxiliary and supplemental to the railroad service. The development of such conditions began, as a practical matter, in *Kansas City Southern Transport Co., Inc. Common Carrier Application,* 10 M. C. C. 221 (1938); 28 M. C. C. 5 (1941).

The Commission's views as to the relationship between the proviso of Section 5 (2) (b) and Section 207 (a) were fully stated in *Rock Island Motor Transit Co.-Purchase-White Line Motor Freight, Inc.,* 40 M. C. C. 457 (1946) in which it imposed upon Motor Transit's operations the five conditions previously considered by this Court, and in its report in the instant proceeding. Thus, in the prior proceeding, the Commission stated its position as follows:

> Section 207 of the act, providing for the issuance of certificates of public convenience and necessity authorizing operations as a common carrier by motor vehicle, has never contained any provision paralleling the proviso of section 213 (now section 5) which requires special justification of acquisitions by railroads of motor-carrier operating rights. Giving effect, however, to the national transportation policy as declared by the Congress, and as colored by the provisos of sections 5 and 213, it has consistently been recognized in proceedings under section 207 that the preservation of the inherent advantages of motor-carrier service, the

promotion of efficient motor-carrier service and of sound economic conditions in the motor-carrier industry, the avoidance of unfair and destructive competitive practices, and the development of an adequate transportation system employing in coordination all available agencies make it inconsistent with the public interest, and *a priori* something not required by public convenience and necessity, for railroads directly or indirectly through an affiliate to engage, *except in special circumstances*, in motor-carrier operations other than those auxiliary to, and supplemental of, their own train service and designed to be coordinated with train service to produce in effect a new and improved type of coordinated motor-rail service [Emphasis added.] (40 M. C. C., at 466).

* * * * *

It is our opinion, originally indicated in the *Kansas City Southern* case and confirmed by nearly a decade of experience in motor-carrier regulation, that the preservation of the inherent advantages of motor-carrier service and of healthy competition between railroads and motor carriers and the promotion of economical and efficient transportation service by all modes of transportation and of sound conditions in the transportation and among the several carriers, in short the accomplishment of the purposes forming the national transportation policy, require that, *except where unusual circumstances prevail*, every grant to a railroad or to a railroad affiliate of authority to operate as a common carrier by motor vehicle or to acquire such authority by purchase or otherwise

should be so conditioned as definitely to limit the future service by motor vehicle to that which is auxiliary to, or supplemental of, train service.

We appreciate, of course, that section 207, unlike section 5, does not require of a railroad, undertaking to prove that public convenience and necessity require a motor service which it proposes, any greater measure of proof than is required by any other applicant. But this does not mean that it is as easy for one applicant, as for another, to prove need for a proposed service or that this Commission considering an application by a railroad for authority to perform an all-motor service, not in aid of its rail service but in competition therewith and with other motor carriers, can ignore the circumstance that such applicant is a railroad whose operation as proposed would ordinarily be inconsistent with the principles underlying the national transportation policy. In other words, a railroad applicant for authority to operate as a common carrier by motor vehicle, though required to do no more than prove, as any other applicant, that its service is required by public convenience and necessity, has a special burden, not by reason of any attitude or action on our part, but by reason of the very circumstance that it is a railroad. *Where it fails to show special circumstances negativing any disadvantage to the public from this fact*, a grant of authority to supply motor service other than service auxiliary to and supplemental of train service is not justified [Emphasis added.] (40 M. C. C. at 473–474).

Subsequent cases under Section 207 in which, because of the absence of "unusual circumstances" the Commission refused to authorize railroad affiliates to perform motor carrier service which was not auxiliary and supplemental to the rail service, are *Frisco Transportation Co. Extension—Springfield Airport*, 47 M. C. C. 63 (1947), and *Texas & Pacific Motor Co. Common Carrier Application*, 47 M. C. C. 753 (1948).

In its report in the instant case (R. 105–106, 108, 116), the Commission repeated its view as to the relationship of Section 5 (2) (b) and Section 207, as follows:

> * * * Opposing carriers concede that section 207 of the Interstate Commerce Act, hereinafter called the act, the section under which this application was filed, does not contain any provisions requiring imposition of restrictions on certificates issued to motor-carrier subsidiaries of railroads, but nevertheless argue that the national transportation policy, congressional intent, and the provisions of section 5 (2) (b) of the act governing "Combinations and consolidations of carriers" (formerly section 213 of the Motor Carrier Act, 1935), require that the various forms of transportation be kept distinct so that each can operate in its own sphere independently of the other. It is claimed that these considerations mean that we do not have statutory authority to grant applicant an unrestricted certificate. We do not subscribe to this view. Our statutory authority to impose terms and conditions on a grant of authority under section 207 is derived from section 208 of the act. We have always construed these two sec-

tions in the light of the national transportation policy to require, where the circumstances warranted, the imposition of restrictions on certificates issued to motor-carrier subsidiaries of railroads. Where the circumstances did not require such action, we have issued certificates subject to a reservation to impose in the future any limitations, restrictions, or modifications that may appear necessary, and in some instances certificates have been issued without restrictions or even a reservation as just described * * * (R. 105–106).

* * * * *

These views ripened into a policy in *Kansas City S. Transport Co., Inc., Com. Car. Application, supra,* [in which] division 5 imposed 5 conditions or restrictions upon the operating authority granted to a motor-carrier subsidiary of 2 affiliated railways * * * (R. 107).

* * * * *

The main purpose for the policy of imposing the five above-quoted restrictions, or modifications thereof, was to prevent the railroads from acquiring motor operations through affiliates and using them in such a manner as to unduly restrain competition of independently operated motor carriers. This policy was and is sound and should be relaxed only where the circumstances clearly establish (1) that the grant of authority has not resulted and probably will not result in the undue restraint of competition, and (2) that the public interest requires the proposed operation, which the authorized independent motor carriers have not furnished, except where it suited their convenience (R. 108).

* * * * *

> The findings hereinafter made are not to be construed as an abrogation of the policy established in *Kansas City S. Transport Co., Inc., Com. Car. Application, supra.* [10 M. C. C. 221 and 28 M. C. C. 5.] They represent an exception to that policy justified by the evidence in this proceeding. In other words, such findings do not establish a precedent. Each case of this character must be determined upon the facts and circumstances disclosed by the evidence (R. 116).

In brief, both in granting and denying applications by rail affiliates under Section 207 for authority to perform motor carrier service which is not strictly auxiliary to rail service, the Commission has applied the proviso of Section 5 (2) (b), not as a rigid limitation, but as a policy against permitting a railroad to perform ordinary motor carrier operations except to meet an unusual public need for service which other motor carriers will not or cannot meet. As in this case, even where such circumstances exist, the railroad is permitted to render ordinary or unrestricted motor carrier service only to points on or near the railroad, i. e., in the railroad's existing service area.

We submit that this consistent administrative construction of the Act, known to Congress and to the industry, serves the primary Congressional purpose of developing a national transportation system "adequate to meet the needs of the commerce of the United States."

D. Assuming that the proviso of Section 5 (2) (b) applies to the issuance of certificates under Section 207 (a), it does not preclude the Commission from authorizing a railroad controlled motor carrier to provide ordinary motor carrier service to points on or near the railroad

Assuming, *arguendo,* that the proviso of Section 5 (2) (b) also applies to the issuance under Section 207 of certificates authorizing new service, we submit that the proviso cannot be read as a rigid prohibition against permitting a rail affiliate to provide ordinary or unrestricted motor carrier service to points on or near the railroad, regardless of the public's need for service. That is, we contend that the proviso, even if applicable, does not require that rail-controlled motor carrier operations be limited to service at rail rates and on rail billing and to the pickup and delivery of largely less than truckload freight at smaller points, in any and all circumstances.

The condition of the proviso that a railroad be able "to use service by motor vehicle to public advantage in its operations," is not a precise or self-explanatory requirement. As this Court stated in *United States* v. *Rock Island Motor Transit Co.,* 340 U. S. at 437, "The words 'auxiliary to or supplemental of' are not taken from the Act. There is no such specific limitation for railroad operation of motor carriers. Their connotation is to be gathered from the context in which they have been employed by the Commission."

Earlier in this brief, we have attempted to set forth fairly the legislative history of the proviso. That history reflects a broad purpose to prevent monopolization of motor transportation by railroad interests, together with recognition that limited motor carrier operations by railroads would be in the public

interest. Congress did not even attempt to prescribe in detail and for all times and conditions the motor carrier operations which could be performed by railroads. However, we may assume from this history that the proviso was intended to prevent a railroad from engaging in motor carrier operations entirely unrelated to its prior transportation service. Thus, the Rock Island railroad would be precluded from engaging in motor transportation between Chicago and New York. On the other hand, this history is entirely silent as to the extent and manner to which the Rock Island railroad should be permitted to provide motor carrier service to points which it already serves by rail.

From the beginning, therefore, the Commission has been obliged to exercise an informed judgment on a case to case basis in determining the precise motor carrier operations a railroad shall be allowed to perform. As noted above, even in cases under Section 5 (including the prior Section 213 (a) (1)), beginning with the leading *Barker* case, *supra,* in 1936, the Commission has consistently held that where there was an unusual public need for such service it could and would authorize a railroad to render ordinary or unrestricted motor carrier service to points on or near the railroad. In a few acquisition cases under Section 5, the Commission has authorized railroads to acquire rights to serve points not on the railroad and which otherwise would not have adequate transportation service. See, e. g., *Southern Pacific Company—Control; Pacific Motor Trucking Co.—Purchase—Lowinel Trucking Co.,* 60 M. C. C. 373 (1954). Such decisions have

been entirely consistent with the Congressional policy of prohibiting railroad monopolization of motor transportation. They strike a reasonable balance between the statutory policies of satisfying the public need for transportation and preventing railroad domination of motor carriage.

This Court has already recognized that even in acquisition cases the proviso of Section 5 (2) (b) does not embody any specific set of restrictions, such as rail billing on rail rates and key points, upon motor carrier operations by railroads. Thus, in *United States* v. *Rock Island Motor Transit Co.*, 340 U. S. at 442, it was noted that

> Undoubtedly the Commission has not consistently required each rail-affiliated motor carrier to forego motor billings or tariffs. Key points to break traffic are relatively new. * * * Rail affiliates have been permitted to leave the line of the railroad to serve communities without other transportation service. Those divergences, however, are an exercise of the discretionary and supervisory power with which Congress has endowed the Commission.

We submit, therefore, that even if the proviso of Section 5 (2) (b) is regarded as fully applicable to proceedings under Section 207, it did not preclude the Commission from authorizing Motor Transit to render ordinary or unrestricted motor carrier service to points which are stations on the Rock Island railroad (plus a few small points which are near the railroad line) to satisfy an unusual public need for transportation. It also follows that there is no merit to the

contention of the appellant Railway Labor Executives Association that by its action under Section 207 the Commission was evading or thwarting the policy of the proviso.

E. This Court's decisions implicitly recognize that under Section 207 (a) a railroad may be authorized to perform ordinary motor carrier service to points on the railroad

This Court has considered various aspects of the extent to which railroads may engage in motor transportation, in *Interstate Commerce Commission* v. *Parker,* 326 U. S. 60; *American Trucking Assns.* v. *United States,* 326 U. S. 77; *United States* v. *Rock Island Motor Transit Co.,* 340 U. S. 419; and *United States* v. *Texas & Pacific Motor Transport Co.* 340 U. S. 450. It has never held that the proviso of Section 5 (2) (b) means, even in acquisition cases, that motor carrier operations by a railroad must be limited to less-than-truckload shipments to smaller points and on railroad bills of lading at rail rates. It has never held that the proviso of Section 5 (2) (b), whatever its content, applies as a rigid limitation to the authorization of new or additional motor service under Section 207. It has never held that the proviso precludes the Commission from authorizing a railroad to provide motor carrier service to points on its railroad in order to meet a special shippers' need for service. To the contrary, we contend that the decisions of this Court implicitly recognize that the Commission is empowered under the Act to authorize a railroad or its affiliate to perform ordinary motor carrier service to points which are already stations on the railroad (plus a few small points close to the railroad).

Interstate Commerce Commission v. *Parker, supra,* involved an application under Section 207 by a railroad controlled motor carrier for certificates of public convenience and necessity authorizing new or additional motor carrier service. There, this Court upheld the power of the Commission to authorize a railroad subsidiary to engage in motor carrier operations which were supplemental to the railroad service in the sense of delivering rail-billed less-than-carload freight to way stations, even though the existing motor carriers might arrange to furnish successfully the proposed service. Much of this Court's rationale in the *Parker* case is pertinent here. It pointed out that "Section 207 (a) provides for issuance of the certificate on application, if the proposed service 'is or will be required by the present or future public convenience and necessity.' No other provisions are here involved" (Ibid. p. 64). The Court also stated that the phrase "public convenience and necessity" possesses "connotations which have evolved from the half-century experience of government in the regulation of transportation," and that Congress "chose the same words to state the condition for new motor lines which had been employed for similar purposes for railroads since the Transportation Act of 1920." The Court concluded that "The purpose of Congress was to leave to the Commission authoritatively to decide whether additional motor service would serve public convenience and necessity" (Ibid. p. 65).

The *Parker* opinion expressly recognized that the National Transportation Policy "requires administration so as to preserve the inherent advantages of

each method of transportation and to promote 'safe, adequate, economical, and efficient service.'" However, this Court did not find in that Policy a rigid mechanical restriction upon the powers granted by Section 207. Instead, it pointed out that "Such broad generalizations * * * must frequently produce overlapping aims", and declared that "in such situations, the solution lies in the balancing by the Commission of the public interests in the different types of carriers with due regard for the declared purposes of Congress" (Ibid. p. 66).

> It must be expected, however, that the Commission will be as alert to perform its duty in protecting the public in the maintenance of an efficient motor transportation system as it is in protecting that same public in the successful operation of its rail system. The Commission is trusted by Congress to guard against the danger of the development of a transportation monopoly (Ibid. p. 73).

Having held that where a certificate is sought under Section 207 "No other provisions are here involved", the Court only referred to the proviso of Section 5 (2) (b) in authorizing acquisition of motor carriers by railroads as evidence that the National Transportation Policy "was not intended to bar railroads from the operation of off-the-rail motor vehicles" (Ibid. pp. 66–67). Finally, this Court pointed out that in balancing these public interests which Congress has directed it to consider, the Commission has "customarily" inserted in motor carrier certificates issued to railroads conditions restricting the motor service to

service auxiliary or supplemental to the rail service (Ibid. p. 70).

Thus, *Interstate Commerce Commission* v. *Parker*, *supra*, supports the view that the power of the Commission to issue motor carrier certificates under Section 207 primarily invokes only the traditional concepts of public convenience and necessity, and that the standards of the National Transportation Act and Section 5 (2) (b) come into play, not as rigid limitations written into Section 207, but as flexible Congressional objectives to be balanced in the particular case against the public need for improved transportation service.

United States v. *Rock Island Motor Transit Co.*, 340 U. S. 419, contains more explicit recognition of the Commission's power to authorize a railroad-controlled motor carrier to engage in largely unrestricted motor carrier operations in "special circumstances", i. e., to meet an unusual public need for transportation. That case involved the acquisition under Section 5 by Motor Transit of the independent motor carriers operating the Frederickson and White Line routes. The issue before this Court in that case was whether the Commission was *empowered* (not *required*) to attach to its approval of such acquisitions conditions insuring that Transit's motor carrier oper-

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[5] In *United States* v. *Texas & Pacific Motor Transport Co.*, 340 U. S. 450, 458–459, decided on the same day as the *Rock Island* case, this Court pointed out that the *Texas & Pacific* case involved certificates for new routes under Section 207, while no such certificates were involved in the *Rock Island* case.

ations would be auxiliary to, or supplemental of, the rail service of its parent. In brief, the issue in *Rock Island* was whether the Commission was empowered to impose the conditions which the plaintiffs in the instant case contend *must* be imposed by the Commission. While noting that such restrictions would be burdensome and expensive to Motor Transit, the Court sustained the Commission's power to impose them. Referring to the National Transportation Policy of preserving the inherent advantages of each mode of transportation, this Court concluded (at p. 431) that

> Specific statutory authority is found in the requirements of the proviso in § 213 (a) of the Motor Carrier Act of 1935 and § 5 of the Interstate Commerce Act as amended in 1940, quoted in note 3, *supra*. Railroad operations as motor carriers are forbidden by that *acquisition section* except to enable a railroad "to use service by motor vehicle to public advantage in its operations." [Emphasis supplied.]

In holding that the proviso in Section 5 (2) (b) empowered the Commission to impose such limitations in approving acquisitions of existing motor carriers by railroads or their affiliates, this Court had occasion to refer to the Commission's policy and practice under Section 207. Thus, the Court pointed out (at p. 428) that

> Although § 207, providing for the issuance of certificates of convenience and necessity, has no clause requiring special justification for railroads to receive motor-carrier operating

> rights, such as appears in the proviso in former § 213 and present § 5, the Commission applies the rules of the National Transportation Policy so as to read the proviso into § 207 in order to preserve the inherent advantages of motor-carrier service.

The Court drew its conclusion by quoting (fn. 4) with apparent approval from the Commission's opinion in *Rock Island Motor Transit Co.*, 40 M. C. C. 457 (discussed and quoted *supra*, at pp. 43–46) as follows:

> We appreciate, of course, that section 207, unlike section 5, does not require of a railroad, undertaking to prove that public convenience and necessity require a motor service which it proposes, any greater measure of proof than is required of any other applicant. But this does not mean that it is as easy for one applicant, as for another, to prove need for a proposed service or that this Commission considering an application by a railroad for authority to perform an all-motor service, not in aid of its rail service but in competition therewith and with other motor carriers, can ignore the circumstance that such applicant is a railroad whose operation as proposed would ordinarily be inconsistent with the principles underlying the national transportation policy. * * * *Where it fails to show special circumstances* negativing any disadvantage to the public from this fact, a grant of authority to supply motor service other than service auxiliary to and supplemental of train service is not justified. [Emphasis supplied.]

Again, after referring to the Commission's application of Section 5 (2) (b) in acquisition cases, the Court stated (at p. 433) that "As indicated above in the text just preceding note 4, the Commission reads into Section 207 the same requirement. Thus a consistent attitude toward the use of motors by railroads is maintained." It further noted that

> In acquisition cases under § 5 (2) the certificate is not to be issued without the statutory findings discussed above that the proposed merger or consolidation will be in the "public interest" and that the railroad can use the motor service "to public advantage in its operations." (p. 436),

while "In original applications under § 207, the fact that the applicant is a railroad brings up other questions of transportation policy. See note 4, *supra*."

More significant, this Court pointed out (at p. 442) that

> Rail affiliates have been permitted to leave the line of the railroad to serve communities without other transportation service. Those divergences, however, are an exercise of the discretionary and supervisory power with which Congress has endowed the Commission. It is because Congress could not deal with the multitudinous and variable situations that arise that the Commission was given authority to adjust services within the limits of the Motor Carrier Act.

It cited in support of this statement *Rock Island Motor Transit Co. Extension—Wellman, Iowa*, 31 M. C. C. 643 (discussed *supra*, at pp. 41–42), in which

the Commission authorized an extension of service under Section 207 by a railroad affiliate so as to permit it to render unrestricted motor carrier service to points needing such service. And the Court also cited "55 M. C. C. 567, 584" (which was the Commission's reaffirmance of its decision in 40 M. C. C. 457 to impose upon Motor Transit's operations the five conditions then before the Court), in which the Commission characterized its earlier *Rock Island Transit Co. Extension—Wellman, Iowa,* case, *supra,* as follows:

> Also cited is *Rock Island Motor Transit Co. Extension—Wellman, Iowa,* 31 M. C. C. 643, wherein we granted Transit unrestricted motor-carrier authority under section 207 of the act. There we found that evidence of unusual circumstances established that public convenience and necessity required the issuance of a certificate to perform all-motor operations independently of rail service, and that the carrier so operating would not invade the territory of other rail lines or endanger or impair the operations of existing motor carriers. Thus, we specifically found a need for a service not limited to a service auxiliary or supplementary to rail service. This case is without significance here, for as we indicated in the prior report herein, *special circumstances* may prevail justifying the issuance of unrestricted motor-carrier authority to a rail applicant; and the case cited, and there are others, is but an example of such circumstances.

In brief, we believe that in the *Rock Island* case this Court implicitly approved the Commission's policy and practice of not applying the proviso of Section 5 (2)

(b) in Section 207 cases in which there were "special circumstances", i. e., a special public need for new or additional transportation service.

In *United States* v. *Texas & Pacific Motor Transport Co.*, 340 U. S. 450, decided simultaneously with the *Rock Island* case, this Court sustained the *power of the Commission to impose* upon certificates issued under Section 207 to railroad subsidiaries substantially the same conditions which were attached to the approval of an acquisition of a motor carrier in the *Rock Island* case. The Court stated (at pp. 458-459):

> This proceeding involves certificates for new routes under § 207. No such certificates or applications were in (the Rock Island) case. The opinion, however, considered the Commission's practice in § 207 proceedings and stated that it was the same as in §§ 5 and 213 acquisition proceedings. We now hold that the same considerations justify the reservation in issue here.

Nothing in the *Texas & Pacific* opinion suggests that the Commission is required to impose those or other restrictive conditions under any and all circumstances in authorizing motor carrier operations under Section 207.

Perhaps the strongest confirmation that this Court has not read the proviso of Section 5 (2) (b) as a rigid limitation in Section 207, is that even in an *acquisition* case such as was before it in *Rock Island*, the Court never suggested that Section 5 (2) (b) *requires* the Commission to restrict even *acquired* motor carrier operations to essentially less-than-carload shipments to small points on rail billing and

rates. Indeed, as the Court pointed out (at p. 437): "The words 'auxiliary to or supplemental of' are not taken from the Act. There is no such specific limitation for railroad operation of motor carriers."

We submit that the decisions of this Court stand for the propositions that the proviso of Section 5 (2) (b) necessarily gives the Commission considerable discretion in determining the type of motor carrier operations which may be conducted by a railroad consistently with the Congressional purpose of preventing railroad domination of motor transportation, and that in making such determinations the Commission may take into account the special needs of shippers on or near the railroad for motor service which independent motor carriers cannot or will not provide.[6] Specifically, they sustain the conclusion of the court below that the proviso of Section 5 (2) (b)

[6] Similar questions have arisen under Section 408 (b) of the Civil Aeronautics Act which, modelled upon Section 5 (2) (b) of the Interstate Commerce Act, prohibits the Board from approving an acquisition of control of an air carrier by a non-air carrier "unless it finds that the transaction proposed will promote the public interest by enabling such carrier other than an air carrier to use aircraft to public advantage in its operation and will not restrain competition."

In *Pan-American Airways Co.* v. *Civil Aeronautics Board*, 121 F. 2d 810 (C. A. 2, 1941), the Court of Appeals for the Second Circuit, citing the Interstate Commerce Commission's decision in the *St. Andrews Bay Transportation Co.* case, *supra*, and quoting from its decision in the *Santa Fe Trail Stages* case, *supra*, held that the issuance of a certificate of public convenience and necessity under Section 401 for new air carrier service by a shipping company subsidiary was not limited by the restrictions of Section 408 (b), "though the ability of Export to meet the standards therein might be considered by the Board and by the President in connection with granting certifi-

applies to Section 207 as a flexible policy (rather than a rigid requirement) which "permits the Commission to be governed in exceptional circumstances by the needs of the public convenience and necessity" (R. 194).

II

The Commission's order is based upon adequate findings supported by substantial evidence

In the instant case, the Commission applied the policy of Section 5 (2) (b) of the Act by stating that its administrative policy of restricting motor car-

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cates of *public convenience and necessity*." 121 Fed. 2d at 846. See also, *National Air Freight Forwarding Corp.* v. *Civil Aeronautics Board*, 197 F. 2d 384 (C. A. D. C., 1952), and particularly the dissenting opinion of Judge Prettyman.

In 1947, between the *Pan American* and *National Air Freight Forwarding Corp.* cases, the Civil Aeronautics Board, in *American President Lines, Ltd., Petition*, 7 C. A. B. 799 (1947), carefully reconsidered its understanding of the relationship between Section 401 and 408 of the Civil Aeronautics Act in the light of the *Pan American* decision and the Interstate Commerce Commission's construction of Sections 5 (2) (b) and 207 of the Interstate Commerce Act. Thereupon, the Board concluded that "We are of the opinion that a surface carrier applying for [an air carrier] certificate of public convenience and necessity would be under the necessity of showing that disadvantages existing upon the facts of the particular case by reason of its being a surface carrier were avoided or overcome by other considerations of public interest supported by the record." The concurring opinion of Board Member Landis points out difficulties created by the *Pan American* decision of the Second Circuit and intervening decisions of the Board. Thus, under similar provisions of the Civil Aeronautics Act, the Board has in effect adopted the Commission's "unusual circumstances" doctrine. In *Great Lakes Area Case*, 8 C. A. B. 360, 402–405 (1947) the Board applied this doctrine in authorizing a surface carrier to perform a helicopter service.

rier operations by a railroad "should be relaxed only where the circumstances clearly establish (1) that the grant of authority has not resulted and probably will not result in the undue restraint of competition, and (2) that the public interest requires the proposed operation, which the authorized independent motor carriers have not furnished, except where it suited their convenience." (R. 108). The Commission's conclusion that these conditions were present in this case is founded upon substantial evidence.

A. The competitive effect upon independent motor carriers

In authorizing, pursuant to Section 207 (a), the motor service here involved, the Commission specifically took into account the provision in the proviso of Section 5 (2) (b) that it shall find that motor carrier operations by a railroad or its affiliate "will not unduly restrain competition."

The present case provided a unique record for the determination of the effect of Motor Transit's proposed operations upon independent motor carriers. Since 1951, Motor Transit's operations over the routes involved have been conducted pursuant to a temporary authority under Section 210a (a) restricting it to shipments not in excess of 5,000 pounds and prohibiting movements between or through Chicago, Omaha and, collectively, Davenport, Bettendorf, Rock Island, Moline, and East Moline (*supra*, pp. 6–7). However, Motor Transit had operated without such restrictions over the White Line for more than 13 years prior to 1951, and over the Frederickson Line route for seven years. Thus, when the Commission issued its report

in November, 1954, it was able to base its judgment as to competitive effect upon extensive past operations, rather than solely upon prediction.

Thus, the Commission noted (R. 101) that

> * * * These opposing carriers concede that during the approximate 14-year period in which time applicant was operating over the involved routes without restricting its service, the volume of traffic handled by each of these carriers has increased substantially and generally to a greater extent than did the volume transported by applicant.

Again, it found (R. 113) that

> * * * The less-than-carload traffic moving by railroad over a recent 5-year period has consistently declined. During a comparable period the volume of traffic handled by a group of nine motor carriers serving the Midwest area increased substantially. Applicant's tonnage also increased, but not to the extent of its competitors represented by this group of carriers.

Accordingly, the Commission concluded that "the operations of applicant have not unduly restrained competition, and there is no evidence that its proposed operations would produce such a result" (R. 113).

This finding is supported by substantial evidence (Ex. 8, R. 1851; Ex. 9, R. 1852; Ex. 10, R. 1854; Ex. 11, R. 1856; and Ex. 12, R. 1859).

In a related contention, the appellants contend that Motor Transit's application should have been denied because of the possibility that it would be unfairly

subsidized by its rail parent. In its report (R. 104), the Commission reviewed prior financial and contractual relationships between Motor Transit and the Rock Island railroad, and concluded that

> * * * there is no substantial evidence that these things have during the past several years materially affected the operations of the opposing motor carriers. From the past history of Motor Transit's operations there is little reason to believe that future operations would be conducted in any radically different manner from those in the past.

However, noting that as to some of these agreements the record was vague, the Commission imposed the condition "that all contractual arrangements between the Rock Island Motor Transit Company and the Chicago, Rock Island and Pacific Railroad Company be reported to us and shall be subject to revision, if and as we find it to be necessary in order that such arrangements shall be fair and equitable to the parties" (R. 117).[7] In so doing, the Commission has retained effective power to prevent unfair subsidization of Motor Transit's operations by its rail parent. This is in addition to the Commission's general powers under Section 216 (g) to set aside rates which are not just and reasonable.

Also, the Commission stated in its report that "we shall retain jurisdiction to impose in the future whatever restrictions or conditions, if any, appear neces-

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[7] This is identical with one of the five conditions imposed by the Commission in the prior proceeding and considered by this Court in *United States* v. *Rock Island Motor Transit Co.*, *supra*.

sary in the public interest by reason of material changes in conditions or circumstances surrounding applicant's operations in relation to those of competing motor carriers" (R. 115). Accordingly, it subjected the grant of authority to Motor Transit to the further condition "that there may be attached from time to time to the privileges granted herein such reasonable terms, conditions, and limitations as the public convenience and necessity may require" (R. 117).

We submit that the Commission's findings and the conditions which it imposed are fully responsive to the statutory policy that the Commission determine that motor carrier operations by a railroad "will not unduly restrain competition."

B. The public need for the transportation service authorized by the Commission's order

The appellants also attack in part (App. br. in No. 6, pp. 51–57) the Commission's finding that "the present and future public convenience and necessity" require the motor carrier service which it authorized Motor Transit to perform. They expressly "concede that there was sufficient evidence of record to enable the District Court to sustain the Commission's order insofar as it authorized a bona fide auxiliary and supplemental service to be rendered to and from such relatively minor points as Brooklyn, Colfax, Marengo, Newton, Oxford, Victor, Walcott and Wilton Junction." However, they contend that there is no proof of need for ordinary or "unrestricted service by Motor Transit between such major points as Chicago,

Davenport, Cedar Rapids, Des Moines, Council Bluffs and Omaha" (App. br. in No. 6, pp. 51–52). Elsewhere, they broaden their attack to contend that there was no proof of need for Motor Transit's service between Chicago, Omaha, Des Moines, Tri-Cities, Iowa City, Grinnell, Newton and Atlantic (App. br. in No. 6, p. 54).

In brief, the appellants concede a public need for Motor Transit to perform what would be in substantial part less-than-truckload service on rail bills of lading and at rail rates between the small towns, and between a larger town and the adjacent smaller towns intermediate to the next so-called major point. They would preclude Motor Transit from performing motor transportation between any two points each of which has a population in excess of 6,000. We contend that there was ample evidence to support the Commission's conclusion that the public convenience and necessity required that Motor Transit's operations should not be so restricted.

The Commission found (R. 110), and it is undisputed, that "Applicant is the only carrier that for a considerable number of years has maintained daily (generally at least 5 days a week) scheduled peddle operations over the entire White Line and Frederickson Line routes regardless of the volume of traffic available for movement in such operations." After summarizing the testimony of many shippers and of motor carriers which interchange freight with Motor Transit, the Commission made the following findings (R. 114–115):

The evidence abundantly establishes that public convenience and necessity require the proposed less-than-truckload peddle operations. In addition to the testimony of the many public witnesses regarding their need for such service, there must be taken into consideration that not one of the opposing motor carriers having the requisite authority has established or offered to establish scheduled peddle operations to replace each such operation, conducted by Motor Transit prior to August 30, 1951, and, by refraining from doing so, they no doubt realize that such peddle operations could not be profitably operated with interstate traffic only. The peddle service provided by Motor Transit has been, and to a limited extent, due to the weight limitation, is, based on interstate, intrastate, and rail-billed traffic. With these three kinds of traffic available it is patent that Motor Transit could provide better service to the public than the motor carriers who claim that they can take over Motor Transit's interstate motor-billed business. These carriers hold no intrastate rights on the considered White Line and Frederickson Line routes and cannot obtain such rights because it is the policy of the Iowa State Commerce Commission to grant such rights to only one carrier on a given route. Motor Transit possesses such rights on these routes.

There is some evidence of a public need for the proposed truckload services of applicant, but it is not as convincing as that with respect to the peddle operations, and this is understandable because the other motor carriers operating in the area have usually provided satis-

factory service on truckload shipments. There is also some evidence that the latter have refused to accept truckloads of low-rated commodities. In any event we feel that there is sufficient basis to warrant a complete grant of authority to applicant. This truckload "cream of the traffic," which to some extent has been handled by Motor Transit for many years without seriously affecting the expansion of its competitors' operations, should not be handed over to its competitors and Motor Transit expected to provide the expensive peddle services.

Acceptance of the opposing motor carriers' position would have the following results. They would be left to provide the peddle services on interstate motor-billed traffic, which alone will not justify the type of services heretofore rendered by Motor Transit, and all such traffic in truckloads. Motor Transit would be left with intrastate and rail-billed traffic, which will not warrant continuance of the operations conducted by it prior to August 30, 1951. The net result is clearly not in the public interest.

There is ample evidence to support the Commission's finding that the public convenience and necessity require Motor Transit's regular peddle service along the routes involved. Thus, the testimony of 111 shippers and consignees at points on the White Line and Frederickson Line routes as to their transportation needs, was summarized by the Commission as follows (R. 110–111):

* * * The witnesses located at points in Iowa have used the services of Motor Transit over a period of many years and have, to a consider-

able extent, built their businesses on that service, particularly with respect to less-than-truckload shipments. With that service available, they do not have to maintain large inventories because they can order from the manufacturer or wholesaler at the supply points, such as Chicago, Minneapolis-St. Paul, Omaha, Kansas City, or Moline, early one day and be reasonably certain of delivery on the next day in some instances, and in others not later than the second day. Some of them stressed their need for this service in obtaining expedited movement of repair parts, including those for farm machinery. * * *.

Reflecting the importance of delivery to points on these routes of freight received in interchange from other motor carriers, the Commission found (R. 110) that

> * * * These [opposing] carriers prior to August 30, 1951, delivered less-than-truckload freight to Motor Transit for movement to destinations they are authorized to serve. Some of this freight consisted of low-rated articles which such carriers deemed unprofitable to handle. These carriers in many instances refused to accept less-than-truckload shipments from their motor-carrier connections for movement to a destination embraced in their operating authority. As a result thereof, several of these connecting carriers have had to rely upon Motor Transit to accept and make delivery of such shipments, even in cases where the delivering carrier was designated by the shipper. These experiences have convinced some of the connecting carriers that the unrestricted serv-

> ices of Motor Transit should continue to be available to them so that they may have a carrier that is always willing and able to accept interchange shipments destined to points on the White Line and Frederickson Line routes. * * *.

Similarly, the Commission noted (R. 98–99) that

> Eight motor carriers have been and are interlining traffic with applicant, principally at Chicago and the Tri-Cities. Generally these carriers do not ordinarily experience any difficulty in interlining shipments destined to the larger points of population on U. S. Highway 6, such as Des Moines and Newton, but they are of the opinion that applicant must be in a position to serve these points and to handle overhead traffic in order to provide the required service, particularly the expensive peddle operations, at the smaller points to avoid sustaining a loss on the entire operation. Several of these carriers are members of the American Trucking Associations, Inc., which is opposing the application.

The Commission also considered in its report the operating authority and the actual operations of the appellant motor carriers and concluded that they could not or, in any event, had not, performed over most of the routes in question a regular service comparable to that performed by Motor Transit (R. 111–113).

It is undisputed that it is the general policy of the Iowa State Commerce Commission to grant intrastate operating rights to only a single carrier on a particular route (R. 98), and that Motor Transit has exclusive intrastate rights over the White Line and Frederickson Line routes (R. 114). Moreover, we do not

understand the appellants to challenge the Commission's conclusion that regular, scheduled peddle service can be performed in a sparsely populated area, as a matter of economics, only by a motor carrier who possesses both intrastate and interstate operating authority. Rather, they contend "that the Commission in this proceeding is permitting itself to be dominated by the Iowa Commission's policy of intrastate monopoly" (App. br. 65).

The Interstate Commerce Commission is without power to interfere with the policies of the State Commission in issuing certificates of public convenience and necessity relating to intrastate commerce. Indeed, Congress provided specifically in Section 202 (b) that "Nothing in [Part II dealing with motor carriers] shall be construed * * * to interfere with the exclusive exercise by each State of the power of regulation of intrastate commerce by motor carriers on the highways thereof." However, we submit that it is entirely proper for the Commission in administering Section 207 to take into account the effect of such State policies, just as it considers other transportation conditions.

As noted above, the appellants claim that there is no proof of public need for Motor Transit's service between the major points on these routes, amounts to a claim that there is no justification for authorizing such service between any of the points with a population in excess of 6,000 persons. For convenience, we repeat here the Commission's findings and reasoning on this aspect of the case (R. 115):

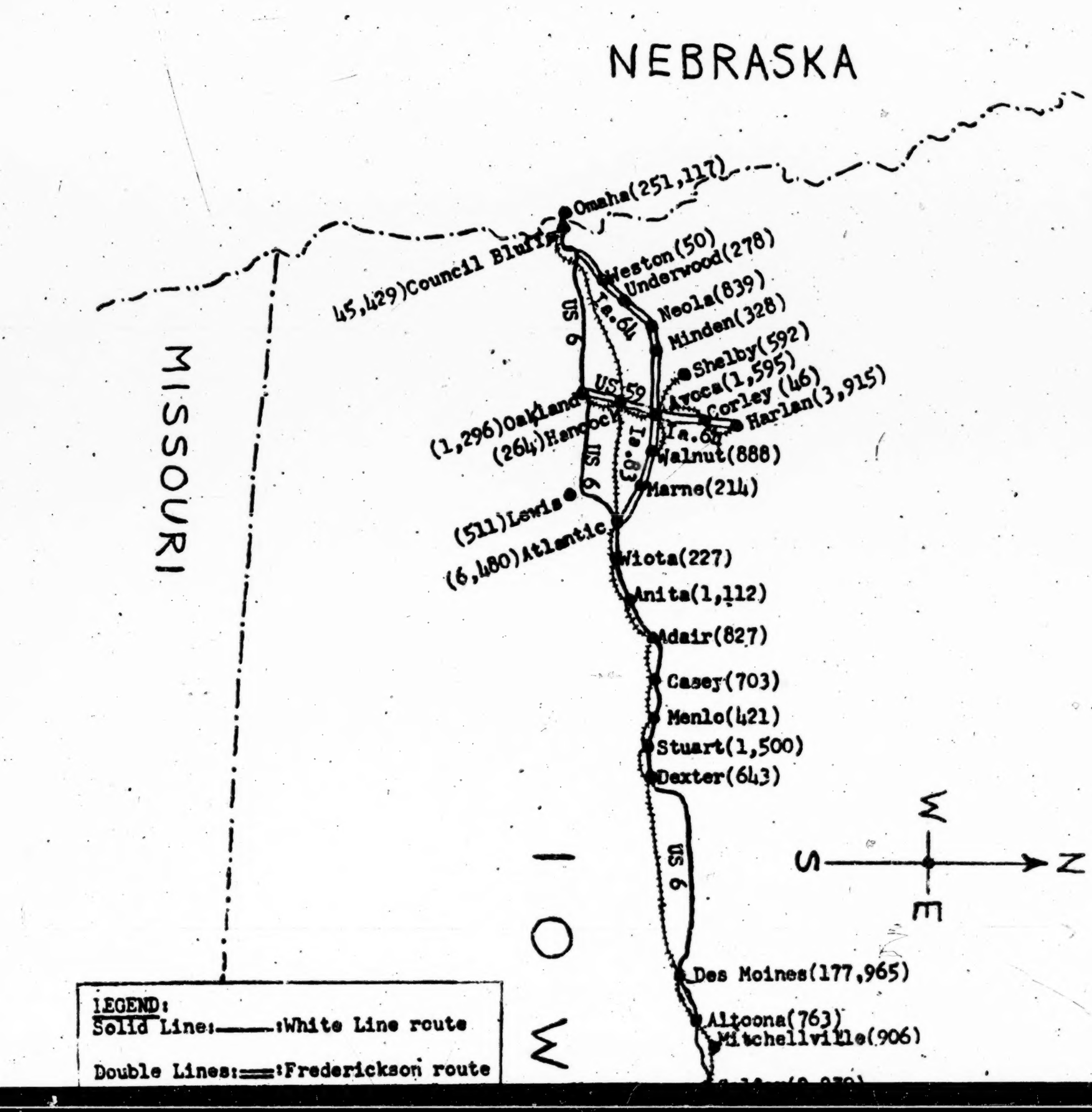
> There is some evidence of a public need for the proposed truckload services of applicant, but it is not as convincing as that with respect to the peddle operations, and this is understandable because the other motor carriers operating in the area have usually provided satisfactory service on truckload shipments. There is also some evidence that the latter have refused to accept truckloads of low-rated commodities. In any event we feel that there is sufficient basis to warrant a complete grant of authority to applicant. This truckload "cream of the traffic," which to some extent has been handled by Motor Transit for many years without seriously affecting the expansion of its competitors' operations, should not be handed over to its competitors and Motor Transit expected to provide the expensive peddle services.

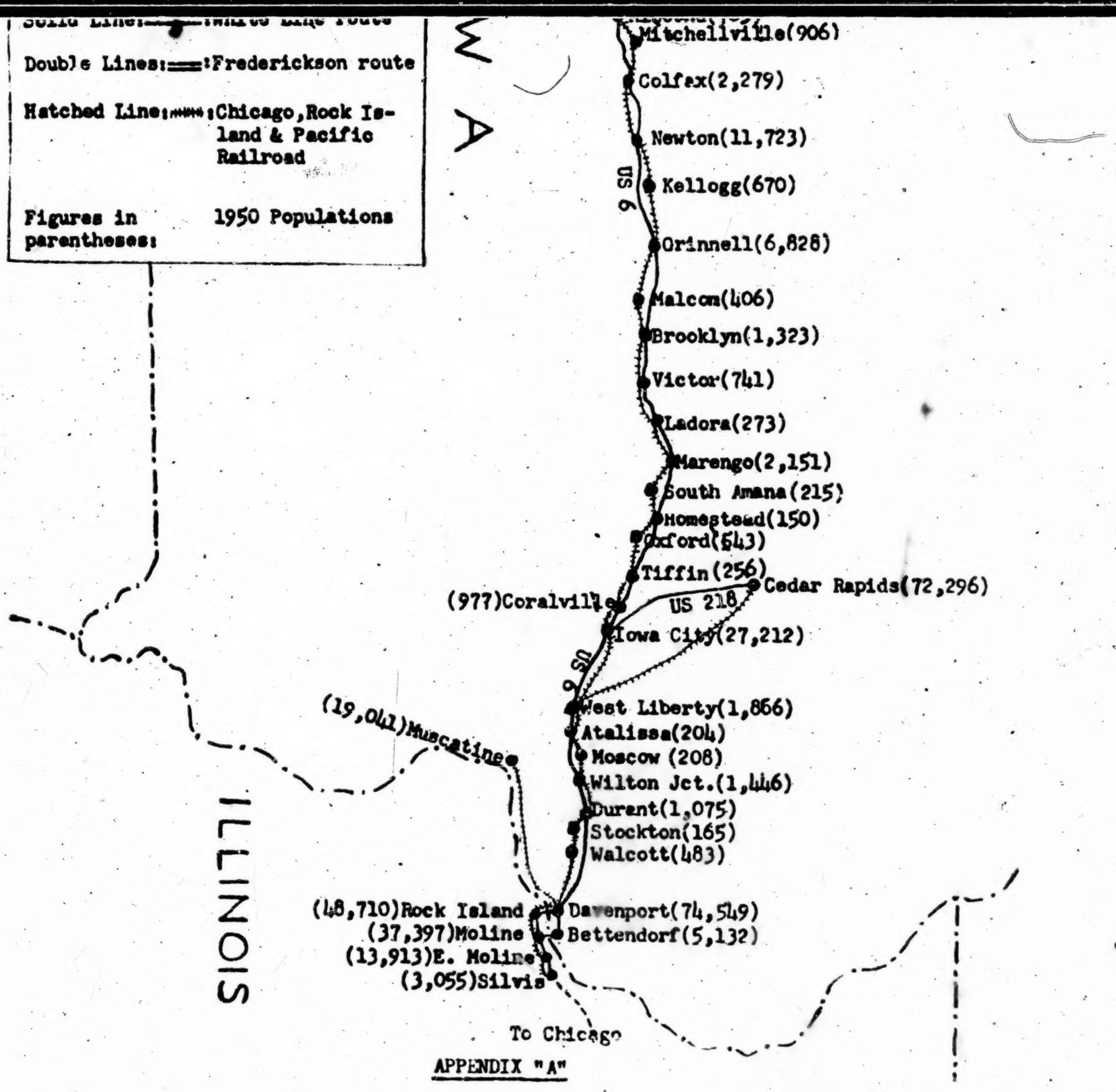
It is axiomatic that regular peddle service to small communities, involving the handling of many less-than-truckload shipments, is relatively costly to perform. Generally, motor carriers prefer to handle truckload shipments which tend to have their origin and destination at larger points. As the Commission noted (R. 98), Chairman Reed of the Iowa State Commission testified that "The trend in this State in the matters that we have contact with has been that the carriers generally are getting away from the local service and the smaller shipments" (R. 742). We submit that it was consistent with the basic concept of common carriage, and within the Commission's regulatory discretion, for it to conclude that the only carrier which can and will provide regular peddle service to the

smaller towns also shall be allowed to compete for the more profitable truckload traffic between the larger points on the same routes. That motor carriers have an obligation to serve both large and small shippers, rather than "skimming the cream" of truckload traffic, is not a new principle in motor carrier regulation. It has been applied by the Commission in a variety of circumstances. See *Keele Common Carrier Application—New Operation*, 30 M. C. C. 173, 181; *D. A. Beard Truck Lines Co. Com. Car. Applic.—New Operation*, 30 M. C. C. 197, 205; *The Emery Transportation Company, Extension—Jeffersonville Radius*, MC-9685 (Sub No. 9) (not officially reported), 8 Fed. Carr. Cas. par. 31,962; *Mid-States Freight Lines, Inc.—Purchase—Carlo Transp. Co.*, 57 M. C. C. 581, 595; *Osborne Extension—Lower Minimum Weight Shipments*, 64 M. C. C. 553, 554.

Moreover, as the Commission found (R. 115) "There is some evidence of a public need for the proposed truckload services of [Motor Transit]." This evidence may be summarized as follows:

At the outset, it should be noted that the testimony of many of the witnesses whose testimony was summarized by the Commission in its report (R. 110–111), supported a need for Motor Transit's service at and through the so-called larger points, as well as to the smaller towns. It is fair to say that the case was not tried before the Commission in terms of a distinction between the need for service to the small towns and need at the larger points. Nevertheless, there was substantial evidence that shippers had reeeived from Motor Transit a better service to and between the


NEBRASKA
MISSOURI
IOWA
Omaha(251,117)
45,429)Council Bluffs
Weston(50)
Underwood(278)
Neola(839)
Minden(328)
Shelby(592)
Avoca(1,595)
Corley (46)
Harlan(3,915)
(1,296)Oakland
(264)Hancock
Walnut(888)
Marne(214)
(511)Lewis
(6,480)Atlantic
Wiota(227)
Anita(1,112)
Adair(827)
Casey(703)
Menlo(421)
Stuart(1,500)
Dexter(643)
Des Moines(177,965)
Altoona(763)
Mitchellville(906)
US 6
Ia. 44
US 59
Ia. 83
Ia. 6
S
W
E
N
LEGEND:
Solid Line:——:White Line route
Double Lines:═══:Fredericksoni route


Double Lines: Frederickson route
Hatched Line: Chicago, Rock Island & Pacific Railroad
Figures in parentheses: 1950 Populations
Mitchellville(906)
Colfax(2,279)
Newton(11,723)
Kellogg(670)
Grinnell(6,828)
Malcom(406)
Brooklyn(1,323)
Victor(741)
Ladora(273)
Marengo(2,151)
South Amana(215)
Homestead(150)
Oxford(643)
Tiffin(256)
Cedar Rapids(72,296)
(977)Coralville
US 218
Iowa City(27,212)
West Liberty(1,866)
Atalissa(204)
Moscow (208)
Wilton Jct.(1,446)
Durant(1,075)
Stockton(165)
Walcott(483)
(19,041)Muscatine
(48,710)Rock Island
(37,397)Moline
(13,913)E. Moline
(3,055)Silvis
Davenport(74,549)
Bettendorf(5,132)
US 6
US 218
ILLINOIS
To Chicago

APPENDIX "A"

larger points than they had been able to receive from other motor carriers.

Thus, shipper witnesses from *Chicago* (Macdonald, R. 268–277); Lussa, R. 277–281; Ozinga, R. 281–286; Hoppe, R. 286–290), from *Tri-Cities* (Davenport, Rock Island and Moline) (Stevens, R. 467–480); Gans, R. 257–268; Schunter, R. 321–329; Pahl, R. 880–885), from *Muscatine* (Gould, R. 1263–1267; Sweany, R. 1251–1263), from *Iowa City* (Jacobs R. 486–490; Nesmith, R. 490–493; Swanholm, R. 493–497; Slager, R. 1142–1149; Wegmuller, R. 1136–1142), from *Grinnell* (Zimmerman, R. 713–716; Mathews, R. 716–720; Ritter, R. 734–738; McKean, R. 747–751; Brink, R. 752–760), from *Newton* (Denniston, R. 783–790; Dunn, R. 791–795; Engle, R. 795–813), from *Des Moines* (Griffith, R. 1313–1316; Louberto, R. 1299–1306; Triggs, R. 1289–1299), from *Atlantic* (Turner, R. 933–936; Mitchell, R. 546–551), from *Council Bluffs* (Ball, R. 1005–1010), and from *Omaha* (Seastedt, R. 1010–1014; Hartnett, R. 994–1005) testified variously that on shipments between the larger points they had received faster and more dependable service from Motor Transit than from other motor carriers, that other motor carriers had been reluctant to accept low-rated shipments, and that in some instances curtailment of Motor Transit's service would require them to operate their own trucks. Similar testimony that shippers would suffer if Motor Transit were not allowed to serve the larger communities on the routes in question was received from representatives of the Chambers of Commerce or traffic organi-

zations of *Chicago* (Maurer, R. 243–257), *Davenport* (Cummins, R. 227–243), *Muscatine* (Sweany, R. 1251–1263), *Cedar Rapids* (Ewoldt, R. 1117–1126), *Iowa City* (Gage, R. 484–486), *Des Moines* (Hansen, R. 1316–1320), *Atlantic* (Walker, R. 1197–1202), and *Omaha* (Heinecamp, R. 1356–1379). It should be noted that this evidence, and the Commission's finding derived from it, are based upon the service which Motor Transit actually had performed in the past, rather than mere expectations as to the service it could and would render.

The Commission did not purport to determine whether this evidence alone would have established that the public convenience and necessity required that Motor Transit be authorized to serve the larger communities. Rather, it determined that this demonstrated need, coupled with its conclusion that only Motor Transit could provide a regular peddle service to the smaller points, justified a grant of authority to Motor Transit to serve all of the points on the routes involved. We submit that the Commission's action upon this record was well within the broad discretion conferred upon it by Congress to determine what transportation service is required by the public convenience and necessity. *Interstate Commerce Commission* v. *Parker*, 326 U. S. 60, 65; *United States* v. *Detroit Navigation Co.*, 326 U. S. 236, 241; *United States* v. *Carolina Freight Carriers Corp.*, 315 U. S. 475, 489.

CONCLUSION

The judgment of the three-judge court should be affirmed.

Respectfully submitted.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1957

Nos. 6 & 8

AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL.,
Appellants,

v.

UNITED STATES OF AMERICA; INTERSTATE COMMERCE COMMISSION, ET AL., *Appellees.*

RAILWAY LABOR EXECUTIVES' ASSOCIATION, *Appellants,*

v.

UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, ET AL., *Appellees.*

Appeal From the United States District Court for the District of Columbia

BRIEF OF ROCK ISLAND MOTOR TRANSIT COMPANY INTERVENOR-APPELLEE

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---

BRIEF OF ROCK ISLAND MOTOR TRANSIT COMPANY INTERVENOR-APPELLEE

The briefs of appellants correctly set forth the citation of the case below, the jurisdiction of the court, and the statutory provisions involved in the appeal.

QUESTIONS PRESENTED

The questions presented may be stated as follows:

1. When, in a proceeding under Section 207(a) of the Interstate Commerce Act, the Commission finds that public convenience and necessity require motor carrier service in a particular area, does the fact that the applicant therefor is a railroad subsidiary preclude the Commission from issuing an appropriate certificate to such applicant?

2. Are the provisions of Section 5(2)(b) of the Interstate Commerce Act, relating to acquisition of a motor carrier by a railroad, to be construed as prohibiting railroad corporations, or their subsidiaries, from conducting motor carrier operations over public highways even though the public need therefor is clearly demonstrated by evidence?

3. Is the conclusion of the Commission that public convenience and necessity requires the continuation of the service rendered by Rock Island Motor Transit Company, Intervenor-Appellee, supported by substantial evidence?

Briefly stated, the position of Rock Island Motor Transit Company, Intervenor-Appellee, is that the foregoing questions have been fully answered by the decisions of this Court in *United States, et al.* v. *Rock Island Motor Transit*, 340 U.S. 419, 95 L. Ed., 391, 71 S. Ct. 382; in *Interstate Commerce Commission, et al.* v. *Parker*, 326 U.S. 60, 89 L. Ed., 2051; and in *United States, et al.* v. *Pierce Auto Freight Line*, 327 U.S. 515, 90 L. Ed., 821.

4. A further question presented in Number 8 is:

> Does an association of labor executives, comprised of officers of various unions, some of which

represent employees of a railroad whose wholly owned subsidiary has applied for a certificate of public convenience and necessity authorizing motor carrier operations, have standing to challenge the legality of Commission action granting a certificate to such railroad subsidiary?

STATEMENT OF THE CASE

The statements of the case appearing in the briefs of counsel for appellants do not fully disclose the factual situation or background of the case. We therefore substitute the following brief outline of the previous history of the case, and the evidence before the Commission:

Rock Island Motor Transit Company is the successor in title and interest to White Line Motor Freight Company, one of the pioneer operators in the motor carrier field between Chicago, Ill. and Omaha, Nebr., and particularly between the Mississippi River points of Rock Island, Moline, East Moline, Ill., Davenport and Bettendorf, Ia., and the Missouri River points of Council Bluffs, Ia. and Omaha, Nebr. White Line commenced motor carrier operations in early 1930 between the Quad-Cities (Rock Island, Moline and East Moline, Ill., and Davenport, Ia.) and Des Moines, Ia. via U.S. Highway 6. A few months later, its operations were extended from Des Moines to Omaha, Nebr. over the same highway; its service was extended to Cedar Rapids, from Iowa City over U.S. Highway 218, and to Muscatine, about 27 miles west of Davenport over Iowa Highway 38. In the early 1930's it extended its motor carrier service east to Chicago via Highways 92 and 34, and later entered into an interchange arrangement with Keeshin Motor

Express between Chicago and East Moline, where trailers were interchanged and White Line performed the service between East Moline and Omaha, Nebr. (See *Rock Island Motor Transit Company—Purchase—White Line M.F.*, 5 M.C.C. 451)

On October 13, 1937, Motor Transit and White Line jointly applied to the Commission for its approval of the acquisition by Motor Transit of all physical assets and operating authority of White Line. A recommended report and order of an examiner of the Commission approved the transaction but suggested that the Commission impose conditions restricting the transportation to be performed to shipments moving on railroad billing and at rail rates, and that Motor Transit's operating authority be subject to such further limitations and restrictions as the Commission might find necessary to impose "to insure that the service shall be auxiliary or supplementary to the train service of the Chicago, Rock Island and Pacific Railway Company, and shall not unduly restrain competition".

Exceptions were filed and fully argued before Division 5 of the Commission, in which Motor Transit urged the desirability of performance of motor carrier service by it on motor carrier billing and at motor carrier rates. Motor Transit pointed out that the conditions proposed by the examiner would deprive some of the communities previously served by White Line of the benefits of motor carrier service. On April 1, 1938, the Commission, Division 5, entered its order approving the acquisition. It expressly found that the acquisition would promote the public interest, would enable the railroad to utilize service by motor vehicle to public advantage in its operations, and would not unduly restrain competition. The restriction confining

Motor Transit to transportation of shipments on rail billing at rail rates was eliminated, but the reservation of authority to impose future restrictions to insure that the service shall be auxiliary or supplemental to the train service of the Chicago, Rock Island and Pacific Railway Company was retained. A certificate containing that condition and restricting Motor Transit's operations to points which were stations on the line of the Rock Island Railroad was issued December 3, 1941.

Coincident with the acquisition of White Line's interstate operating authority, Motor Transit also acquired its intrastate certificates of public convenience and necessity which authorized motor carrier service between Iowa points via the same routes. Motor Transit took over the operation immediately after April 5, 1938. It purchased new equipment, acquired certain other routes connecting with the former White Line operation, and improved the White Line service by inaugurating a number of "peddler" runs, by which is meant distribution of numerous small shipments by a truck which starts from a larger terminal and makes deliveries at smaller points, either returning to its origin point, or continuing to a destination on the same route. In these peddler runs, Motor Transit handled interstate motor billed freight, intrastate motor billed freight and both inter and intrastate railroad billed shipments, which were turned over to it by the railroad.

J. H. Fredrickson and Son, of Harlan, Iowa, held interstate and intrastate certificates authorizing operations as a common carrier between Avoca, Harlan, Council Bluffs, Oakland and Atlantic, serving a number of communities which were stations on the rail line of the Rock Island Railroad, not located on U.S.

Highway 6. On November 28, 1944, in *Rock Island Motor Transit Company—Purchase—Fredrickson*, 39 M.C.C. 824, the Commission, Division 4, approved Motor Transit's acquisition of the Fredrickson certificate, but no certificate was immediately issued to Motor Transit. On February 5, 1945, the Commission ordered both the Fredrickson and the White Line cases reopened for further consideration to determine what, if any, restrictions should be imposed in order to insure that the service rendered by Motor Transit would be auxiliary and supplemental to the rail service of the railroad.

Pursuant to the reopening, the Commission, in *Rock Island Motor Transit Company—Purchase—White Line M. Frt.*, 40 M.C.C. 457, on March 4, 1946 without a hearing, entered an order directing that both the White Line and Fredrickson certificates be restricted to handling shipments on rail billing and at rail rates and with other conditions designed to insure that the service be auxiliary and supplemental to the rail service of the railroad. Motor Transit filed a petition for reconsideration of this order, in which it suggested that a hearing be held. On June 9, 1947, the Commission again reopened the two acquisition cases for further hearing. A hearing was scheduled but Motor Transit declined to introduce evidence and thereafter on April 11, 1949, in 55 M.C.C. 567, the Commission issued its order imposing the same restrictions as were embodied in the order of March 4, 1946.

Motor Transit instituted a suit in the United States District Court for the Northern District of Illinois at Chicago. A three judge court, on November 29, 1949, set aside the Commission's order of April 11, 1949, and enjoined its enforcement. *Rock Island Motor Transit*

Company v. *United States, et al.*, 90 F. Supp. 516. The United States and the Commission appealed from the judgment of the District Court, to this Court, which on February 26, 1951, in *United States et al.* v. *Rock Island Motor Transit Company*, 340 U.S. 419, 71 S. Ct. 382, 95 L. Ed. 391, by a vote of five justices to four, reversed the decision of the three judge court. This Court held that the Commission, under the reservation contained in the White Line certificate, had the power to impose the restrictions, and as to the Fredrickson case, ruled that since no certificate, covering the Fredrickson routes had been issued to Motor Transit, the Commission still had control of the proceeding. Upon the issuance of the mandate of the Supreme Court of the United States, Motor Transit's action in the Northern Illinois District Court was dismissed, and judgment rendered against it for costs of the action.

On August 30, 1951, upon a showing of lack of service to the area covered by the White Line and Fredrickson certificates, supported by affidavits of shippers and others, the Commission granted Motor Transit temporary authority for not to exceed 180 days to render motor carrier service to the affected points, restricted to a maximum of two thousand pounds for any one shipment. A hearing was held before an examiner of the Commission in September, 1951, after which the maximum restriction was raised to five thousand pounds per shipment.

On October 26, 1951, Motor Transit filed its application under Section 207 for permanent authority to perform motor carrier service over the White Line and Fredrickson routes. This was later amended to apply for removal of the maximum weight and keypoint limitations upon applicant's service. Hearings upon

this application extended over fourteen full days, March 18 through April 2, 1952 and May 20 to 22 inclusive. On April 21, 1953, the hearing examiner filed a recommended report and order which appears at R. 1. Exceptions were filed by a number of motor carriers, by American Trucking Associations, Inc. and oral arguments were had before the entire Commission on March 8, 1954. The Commission filed its report and order on November 22, 1954, 63 M.C.C. 91, R. 93. Appellants' petition for reconsideration was denied by Commission order July 14, 1955.

Appellants instituted an action in the United States District Court for the District of Columbia on July 20, 1955. The case was heard upon the record made before the Commission by a three judge court, Circuit Judge Prettyman presiding, on December 15, 1955. The unanimous opinion of the three judge court sustaining the action of the Commission was filed January 11, 1956 and judgment dismissing the appellant's complaint was entered January 27, 1956. (R. 195). Notices of appeal by appellants in both 6 and 8 were filed within the required time. This Court noted probable jurisdiction on October 8, 1956. (R. 204).

At the hearing, approximately 180 witnesses were heard. Some 136 of these witnesses were shippers and receivers of freight located in practically every point on the White Line and Fredrickson routes, and other points such as Minneapolis and St. Paul, Minnesota, Chicago, Illinois, Burlington, Ottumwa, Oskaloosa and Clinton, Iowa and Kansas City and St. Joseph, Missouri. The evidence given by these witnesses will be referred to in greater detail in our discussion of the sufficiency of the evidence to support the Commission's findings.

At the conclusion of applicant's evidence before the examiner, the protesting motor carriers, appellants here, requested a postponement of approximately six weeks to enable them to prepare to meet applicant's evidence. The examiner thereupon adjourned the hearing from April 2, 1952 until May 20, 1952. The appellants introduced no shipper witnesses to controvert the showing made by applicant. The only witnesses called, aside from certain individuals performing local pickup and delivery service for other motor carriers at points like Iowa City and Atlantic, were C. A. Gracey, Vice President of Iowa-Nebraska Transportation Company, E. W. Harlan, President and General Manager, Bruce Motor Freight, Inc., which operates between St. Paul and Minneapolis, Des Moines, Kansas City and St. Louis with no service whatever to intermediate points, including such cities as Ottumwa, Ia., population 33,000, Keokuk, Ia., population approximately 20,000, and Missouri points; Joe Bos, of Bos Truck Lines, Inc., Marshalltown, Iowa, and A. W. Hobbs, Vice President, Des Moines Transportation Company. During the cross-examination of the witness Gracey, request was made that freight bills and delivery receipts of Iowa-Nebraska Transportation Company, showing shipments originating and handled at Omaha, Nebr., Des Moines, Ia. and Chicago, Ill., destined to points involved in the proceeding, be produced for examination. The examiner denied the request but advised counsel for all parties that the failure to produce such records was a circumstance which might be taken into account in determining the weight and credit to be given the testimony of the witness as to the time when peddler service was inaugurated and the extent of it. (R. 1571-1573).

At the time of the hearing before the Commission, Motor Transit was operating peddler runs on regular daily schedules (at least five days per week) over portions of the White Line route as follows:

A. Between Davenport and Atalissa, Iowa and return, serving the intermediate points of Walcott, Stockton, Durant, Sunbury, Wilton Junction, Moscow and Atalissa. This run leaves the Davenport, Ia. terminal at 7:00 a.m., delivers and picks up freight shipments at those points. (R. 362-363)

B. Between Iowa City and Victor, Ia. and return, serving the intermediate points of Tiffin, Oxford, Homestead, South Amana, Marengo and Victor. (R. 566-568)

C. Between Iowa City and Wellman, Ia. and return, serving the intermediate point of Kalona. (R. 566-569)

D. Between Cedar Rapids and Ottumwa, Ia. via U. S. Highway 218 and Iowa City. (R. 570-571)

E. Between Des Moines and Colfax, Ia. and return, serving the intermediate points of Altoona and Mitchellville. (R. 1341)

F. Between Des Moines and Newton, where an exchange of trailers is made, and the tractor picks up a loaded semi trailer unit, and proceeds east to Chicago, making pickups in Grinnell and Iowa City. (R. 1342-1344).

G. Between Des Moines, Kellogg and Grinnell. (R. 1343)

H. Between Des Moines, Brooklyn, Marengo, Iowa City, Nichols and Muscatine. (R. 1344-1345)

I. Omaha, Nebr. to Lewis, Treynor, Carson, Oakland, Hancock, Avoca and return via Iowa Highway 64, serving in addition to the points specified, Shelby, Neola, Minden, Underwood, and Weston. (R. 1331)

J. Between Des Moines and Audubon, Ia. and return, serving Atlantic, Brayton, Exira, Hamlin and Audubon. (R. 1347)

K. Between Des Moines and Anita, Ia., serving the intermediate points of Dexter, Stuart, Menlo, Casey, Adair, Anita and return to Des Moines. (R. 1347)

These runs all handled rail billed freight, and interstate and intrastate motor carrier billed freight in the same vehicle. The proportion of rail billed freight varied from ten to twenty-five per cent, and the proportion of inter and intrastate motor billed freight varied according to the location of the run. At the hearing, the position of Rock Island Motor Transit Company, Intervenor-Appellee, was supported by numerous representatives of motor carriers who have interlined shipments with Motor Transit at such points as Chicago, Rock Island and Moline, Ill., Cedar Rapids and Davenport, Ia.

These witnesses included:

George V. Bishop, traffic representative for Clipper Transit Company, Manitowoc, Wisc., who testified that his company served eastern Wisconsin points and Chicago; that difficulty had been experienced in securing carriers at Chicago who would handle shipments to destinations in Iowa, such as Oxford, Wilton Junction, Walcott, Lone Tree and Wellman, but that Motor Transit had hand d all such shipments. (R. 290-293)

Henry H. Weixler, Vice President, Atkins Transfer Company, Louisville, Ky., who testified his company

served the area between Nashville, Tenn. and Chicago, and that he had experienced much difficulty in finding carriers to handle shipments to interior Iowa points, but that Motor Transit had handled everything given to them. He referred particularly to destinations such as Wilton Junction, Kalona, Wellman, West Liberty, Grinnell, Audubon, Griswold and Harlan (R. 1019), also to shipments of tires destined from Birmingham, Ala. to Rock Island, Ill. via Chicago.

Keith Cecil, General Manager, Central Transfer Company, Brimfield, Ill. (a suburb of Peoria), testified that his company interlined shipments originating at Illinois points with Motor Transit at Davenport, destined to interior Iowa points; that prior to September 1951, his company interlined numerous shipments in excess of five thousand pounds with Motor Transit; that during the period of time that Motor Transit was restricted to two thousand pound shipments, his company had difficulty in securing interline carriers to serve Iowa destinations, and that some companies had refused to handle them from Davenport to destination. (R. 418, 423)

M. J. Riley, Vice President and Traffic Manager for Dohrn Transfer Company, which operates between Mississippi River points in Iowa, as far south as St. Louis, Mo. and east to Indianapolis, Ind. and Chicago, testified that no motor carrier, other than Motor Transit, rendered a local peddler service to points in Iowa between the Davenport-Rock Island area and Omaha, Nebr.; that while truck loads to Des Moines and larger points could be interlined with other carriers, except at one or two points, his company could get no interline service to points along U. S. Highway 6. (R. 342-347)

V. G. Grice, General Manager, H. & W. Motor Express, which operates between Chicago, Waterloo and Cedar Rapids, Ia. via Dubuque, and to Clinton and the Quad Cities, testified that while his company holds authority to serve every point on U. S. Highway 6 between Davenport and Des Moines, the volume available was usually insufficient to conduct the operation at a profit; that the peddler operations of the carriers generally serving the Iowa territory have depreciated and that, as to many destinations, Rock Island Motor Transit has been the only carrier which would accept interline shipments from his company. (R. 298) This witness testified that interstate traffic with no intrastate certificate would not sustain local peddler service to small intermediate points. (R. 299)

William J. Creagan, General Manager, Knox Motor Service, of Rockford, Ill., which serves the Quad Cities area, including Davenport and Bettendorf, Ia., testified that Rock Island Motor Transit was the only carrier that would consistently take and handle shipments of a few hundred pounds destined to interior Iowa points on or adjacent to U. S. Highway 6. His traffic consists of repair parts for implements shipped by J. I. Case Company, medicines from Rawleigh Company at Freeport, Ill., hardware from Sterling, Ill., and Milwaukee, Wisc., and small tools, and repair parts for implements out of Rockford, Ill. (R. 701-704)

SUMMARY OF ARGUMENT

Section 5 (2)(b) applies only to acquisition cases. Section 207 requires the issuance of a certificate of public convenience and necessity whenever the Commission finds that public convenience and necessity require and that applicant is fit, willing and able to

perform the service. The mere fact that applicant for such certificate is affiliated with a railroad does not make him ineligible to secure a certificate of public convenience and necessity.

The Interstate Commerce Commission has consistently followed the policy of permitting railroad carriers and their affiliates to render motor carrier service whenever the circumstances demonstrate a real need for such service. The decision of the Commission in the case at bar involves no departure from established principles and practices.

The Commission's finding that public convenience and necessity require service by applicant, both to the smaller communities and between the larger centers of population, is a matter entrusted to the discretion of the Commission, and the evidence amply supports the Commission's conclusion. The operations of appellee Rock Island Motor Transit during the years 1938 to 1951 have not tended to create a monopoly nor to lessen competition and there is no prospect that future operations of Motor Transit, under the certificate issued by the Commission, will adversely affect independent motor carriers.

ARGUMENT

Neither the National Transportation Policy embodied in the preamble to the Interstate Commerce Act nor Section 5(2)(b) restrict the power of the Commission to issue certificates of public convenience and necessity when need therefor is shown, merely because the applicant is affiliated with a railroad.

Counsel for the Interstate Commerce Commission will, we believe, fully reply to the contention of Appellants that Congress, by the enactment of Section

5(2)(b) and by the statement found in the National Transportation Policy has forbidden railroads or their subsidiaries to enter the motor carrier field. We shall, therefore, refer to the matter only in the briefest possible manner.

First, we desire to point out that Section 5(2)(b) relates only to acquisitions of existing motor carriers. This provision was intended as a safeguard against the creation of a monopoly in the transportation field. Congress by Section 5(2)(b) has expressly authorized railroads to acquire motor carriers, if the requisite findings are made by the Commission. In other words, the contention of Appellants is that while 5(2)(b) expressly permits railroads to acquire motor carriers, still the section must be construed to prohibit such acquisitions. It is Appellants' contention that the statute must be construed as authorizing a railroad to acquire only the vehicles used by a motor carrier, and then use them in its operation as a railroad. The language of 5(2)(b) negatives any such Congressional intent.

Second, the language of Section 207 requires no construction. The section is plain and unambiguous. It expressly authorizes issuance of certificates of public convenience and necessity for motor carrier operation "to any qualified applicant", when the requisite findings are made by the Commission. The statute as written does not justify resort to extraneous matters to determine the legislative intent.

Third, nothing in the National Transportation Policy or in the provisions of Section 207 or 5(2)(b) indicate any Congressional purpose to prohibit railroads from operating motor carriers, as such. Section 5(2)(b)

indicates concern that no monopoly shall be created in the transportation field, by acquisition of motor carriers by railroads, or persons controlled by railroads. There is no intimation in the language of the Act that Congress was particularly interested in restricting the development of truck transportation by railroads, and certainly no language found in the Act supports the construction for which Appellants contend that railroads, after acquiring motor carriers, must cancel all motor carrier tariffs, and abandon motor carrier operations.

Fourth, this Court by its pronouncements in *Interstate Commerce Commission* v. *Parker*, 326 U.S. 60, 89 L. Ed. 2051, and in *United States, et al.* v. *Rock Island Motor Transit Company, et al.*, 340 U.S. 419, 95 L. Ed. 391, has clearly repudiated the construction for which Appellants' counsel contend.

The decision in the case at bar involves no departure from previous policies or practices of the Interstate Commerce Commission. The Commission has consistently recognized that railroad carriers or their affiliates under proper circumstances may be granted unrestricted motor carrier authority under Section 207, or may acquire and operate existing motor carriers under Section 5(2)(b).

Throughout their Brief, counsel for Appellants have attempted to create the impression that the decision of the Commission in the present case involves a radical departure from long established rules, and that the Commission has adopted a new policy of favoring railroad companies at the expense of the so called independent motor carriers. These statements are wholly without justification, and are in no manner supported by the prior opinions of the Commission.

First, the Commission's opinion specifically points out that its findings in the present case are "not to be construed as an abrogation of the policy established in" previous cases with respect to operation of motor carriers by railroad companies or their subsidiaries. (R. 116)

Second, an examination of the decisions of the Commission will demonstrate that the Commission has always followed a policy designed to secure for the public the benefits of efficient transportation service. Since the adoption of the Motor Carrier Act in 1935, the Interstate Commerce Commission has had frequent occasion to consider the operation of trucks and passenger busses by railroads, or railroad subsidiaries. The policy of the Commission has been to decide each case upon its particular facts with the needs of the communities for service as the controlling consideration. This policy of the Commission has found expression in cases in which rail carriers or their subsidiaries have sought to acquire existing motor carriers, and in which rail carriers have sought certificates of public convenience and necessity under Section 207. There are many outstanding instances in which the Commission has granted certificates authorizing unrestricted motor transportation by railroads. The following constitute only a partial list of such cases found in the Commission's reports.

Santa Fe Trail Stages, Inc.—Control—Central Ariz., 1 MCC 225.

St. Andrews Bay Transportation Co.—Extension, 3 MCC 711

Rock Island Motor Transit Co.—Extension—Wellman, Ia., 31 MCC 643.

Interstate Transit Lines—Extension—Verdon, Nebr., 10 MCC 665

Santa Fe Trail Stages, Inc.—Common Carrier Application, 21 MCC 725
Burlington Transportation Co.—Extension—Council Bluffs, Ia., 28 MCC 783
Texas & Pacific Motor Transport Co.—Extension—Point Blue, La., 47 MCC 425
Santa Fe Trail Transportation Co.—Extension—Joplin, Mo., 44 MCC 474
Burlington Truck Line, Inc.—Extension—Iowa, 48 MCC 516
Clinton, Davenport & Muscatine Ry. Co. —Extension, 24 MCC 250
Southern Pacific Co.—Control, Pac. Motor Trucking Co.—Purchase—Lowinel Trucking Co., 60 MCC 373

In *Rock Island Motor Transit Co.—Extension—Wellman, Iowa*, 31 MCC 643, Motor Transit applied for a certificate authorizing service between Iowa City, Kalona and Wellman, Iowa. The Record demonstrated that there was no existing motor carrier service in that territory. Division 5 found that public convenience and necessity required the service, but imposed a condition restricting the service to be performed to movement of shipments on rail billing and at rail rates. The entire Commission removed this restriction. A similar situation existed in *Clinton, Davenport and Muscatine Ry. Co.—Extension*, 24 MCC 250. Numerous railroads, large and small, have been granted unrestricted motor carrier authority, both in the passenger and freight transportation fields. Burlington Truck Lines, a subsidiary of Chicago, Burlington and Quincy Railroad Company, is an extensive midwest motor carrier, and has operated with no restrictions between Chicago and Omaha, and intermediate points, for approximately 20 years. In addition it has other extensive operations in the States of Illinois, Missouri, Nebraska,

Iowa, and Colorado, upon which no limitation of the character here involved has ever been applied.

An examination of the cited decisions of the Commission and others will demonstrate that the Commission's policy has been based upon a desire to insure adequate and proper service to the public, and that the identity of the particular carrier furnishing the service has not been given controlling weight.

The finding of the Commission that public convenience and necessity require service by applicant both to the smaller communities and between the major points is amply supported by the evidence, and is conclusive upon the Courts.

Railway Labor Executives Association, et al., appellants in Cause No. 8, do not attack the sufficiency of the evidence to support the Commission's conclusion that public convenience and necessity require continuation of service by applicant, Motor Transit Company. Before the Commission and the Court below, American Trucking Associations, Inc., and individual motor carriers, appellants in No. 6, challenged the sufficiency of the evidence to support the Commission's finding of public convenience and necessity. Apparently these appellants have abandoned that position, for, at page 52 of their Brief, they now concede:

> "that there was sufficient evidence of record to enable the District Court to sustain the Commission's order insofar as it authorized a bona fide auxiliary and supplemental service to be rendered to and from such relatively minor points as Brooklyn, Colfax, Marengo, Newton, Oxford, Victor, Walcott and Wilton Junction."

Appellants, in No. 6, still urge, however, that the Record is devoid of testimony showing any public need

for motor carrier service between "major points" involved in this Record.

These so-called "major points" are all cities and towns having a population according to the 1950 census of more than 6,000. They include Chicago, Moline, East Moline, and Rock Island, Ill. and Davenport, Iowa City, Cedar Rapids, Grinnell, Newton, Des Moines, Atlantic, Council Bluffs, Iowa, and Omaha, Nebr.

Counsel for appellants entirely overlook the fact that the undisputed Record shows that there are eleven towns between Des Moines and Davenport which are served by no other motor carrier except applicant. These points are Walcott, Stockton, Durant, Wilton, Atalissa, Tiffin, Coralville, Oxford, Homestead, South Amana and Altoona. They overlook the undisputed fact that in addition to these towns there are points such as West Liberty, Victor, Malcom, Ladora, Marengo, Kellogg, as well as off route points like Kalona and Wellman, which have either no motor carrier service whatever, except that of applicant, or no service rendered on a regular schedule. They overlook the fact that between Des Moines and Omaha the Record likewise shows that no carrier renders any regular scheduled service to points such as Lewis and Griswold located off highway No. 6 and points such as Exira and Brayton, which are between Audubon and Atlantic, Iowa.

Walcott is located approximately twelve miles west of Davenport and one mile off U. S. Highway 6. Witnesses from this community testified that applicant's service was the only available motor carrier service, and this was in no manner controverted, except for testimony that there were irregular route carriers

which occasionally brought in a load of fencing, building material or similar freight, "and we never see them again". The witnesses so testifying with respect to Walcott are Lester Lund (R. 350-353), Erben and Reilly Dietz (R. 1243-1245), and Clarence Lovewell (R. 1247-1249).

From Durant witnesses testified that many trucks pass through the community on U. S. Highway 6, "but they never stop". The witnesses from this town located twenty miles west of Davenport on U. S. Highway 6 were Grover Schneckloth (R. 329-335) and H. R. Lamp (R. 390).

Mrs. Dan Fesler, Coralville, dealer in food products, testified to delays of from two to five days in shipments handled by other carriers, which were delivered to her by transfer trucks from Iowa City. Direct deliveries were made to her place of business by Rock Island Motor Transit Company. Her experiences with the transportation service available to her community are set forth at R. 941-945.

Don Sheetz of Oxford, a dealer in animal feeds, drugs, medicine, extracts, spices and cosmetics produced by the Watkins Company of Winona, Minnesota, testified that difficulties had been encountered in securing delivery of truckloads from Winona, Minnesota; Applicant has the only interstate authority to serve Oxford and delays occurred when the Gateway Company endeavored to find a carrier which might make delivery of a truckload of his merchandise to him at Oxford. This witness's evidence appears in the Record at (R. 458-463).

Applicant has the only certificate authorizing transportation in interstate commerce to and from Kalona

and Wellman, which are located in eastern Iowa and are reached from Iowa City via Iowa Highways 1 and 22. Witnesses from Kalona were Arthur Beranek, dealer in farm implements and machinery, whose evidence appears at (R. 590-593); W. L. Gates, an implement and Chevrolet dealer, whose evidence appears at (R. 593-596); Ellis Swartzendruber, who is engaged in the sale of implements and farm supplies and whose testimony appears at (R. 596-598) and Paul Brenneman, an automobile dealer, whose evidence is set forth at (R. 598-600).

All these witnesses testified that no other service was available to them at Kalona except that of applicant, and told of the needs of their various businesses for the continuation of such service.

At Lewis in the western part of Cass County (located south of Atlantic and adjacent to U. S. Highway 6), the evidence of the witness Reilly Clark sets forth in some detail the transportation picture affecting that community. It is located only one mile off U. S. Highway 6 and numerous carriers, other than Rock Island Motor Transit, pass the community, but render no service to it. The businessmen at this point presented a petition (reproduced R. 1904) which graphically outlines the necessity of applicant's service to the community. The evidence of the witness Clark appears at (R. 1210-1216) and establishes how dependent the citizens of that community are upon the continuation of the service rendered by applicant.

At Hancock, a small community located on U. S. Highway 59 and some eight miles north of U. S. Highway 6, a similar situation exists. William Ebert, owner of Ebert Oil Company, distributor of petroleum

products, tires batteries and automoblie accessories, testified that lubricating oils are received in less than car load shipments on practically a daily basis. He testified that there were truckers located at Hancock that haul livestock to Omaha, Nebraska. That Iowa-Nebraska Company apparently has no right to serve Hancock and that there is no regular service available except that of Rock Island Motor Transit Company (R. 600-602).

American Trucking Associations, Inc. and motor carrier appellants contend that the District Court erred in failing to set aside the Commission's order for lack of evidentiary support as to the "major points". See appellants' brief in No. 6, pages 51-54. These "major points" apparently include all cities and towns having a population in excess of about 6,000 except the City of Muscatine, population 19,041, located about 27 miles southwest of Davenport on the Mississippi River. This contention of appellants overlooks a large amount of extremely pertinent and persuasive evidence which counsel have entirely ignored in their presentation. The record shows that a total of 34 shippers and receivers of freight at these so-called "major points" took the witness stand and testified to the need for Rock Island Motor Transit service to and from their communities. In addition, evidence of representatives of Chambers of Commerce from Chicago, Davenport, Moline, Muscatine, Iowa City, Cedar Rapids, Des Moines, Atlantic and Omaha was presented in support of the need for applicant's service to the so-called "major points."

From the City of Chicago four shipper witnesses and the assistant traffic manager of the Chicago Association of Commerce supported the application. The

testimony of these witnesses may be briefly summarized as follows:

MacDonald, traffic manager for Butler Brothers, wholesalers of general merchandise sold in variety stores, testified that his company shipped approximately 15 million pounds of freight per year, serving about 150 stores or dealers in Iowa, about a dozen of which are located on or adjacent to U. S. Highway 6. An average shipment to such dealers would weigh approximately 300 pounds. Occasion to make shipments of more than 5000 pounds would normally occur only in the case of store openings. The witness was particularly interested in service from Chicago to Audubon, Brooklyn, Colfax, Exira, Grinnell, Muscatine, Newton, Shelby, Stuart and Victor. Other carriers had failed to respond to calls for pick up service for outbound shipments, while Rock Island Motor Transit had responded to all calls promptly in a three months period. The witness further testified that the service rendered by Rock Island Motor Transit Company had been uniformly satisfactory (See R. 268-277).

Lussa, Chicago traffic manager for Rexall Drug Company shippers of drug store merchandise and supplies, drugs and pharmaceuticals, testified that his company shipped its products to approximately eight points including Des Moines, Grinnell, Iowa City, and others. The witness further said: "A good portion of our business is done with accounts located in these smaller towns and involving these peddle runs and we have found that the service of Rock Island Motor Transit has been favorable and we are afraid that if their service is discontinued or curtailed in any way

it would jeopardize our position." All Rexall dealers in the Iowa territory are served from the Chicago branch of the drug company. (R. 277-281)

Ozinga, traffic manager for Consolidated Grocers Corporation, which ships weekly or bi-weekly to 23 Iowa points on or adjacent to U. S. Highway 6, including such points as Atlantic, Council Bluffs, Davenport, Des Moines, Grinnell, Iowa City and Newton. He testified that Rock Island Motor Transit has proved to be the most reliable carrier; that the company had had some bitter experiences in the past with service by others, and that routings had been set up to many of the small towns for use of Rock Island Motor Transit service exclusively. On many occasions the company has need for volume shipments of over 5000 pounds weight. Any restriction or limitation on Motor Transit's service would adversely affect the firm's business for it requires consistent service to every point to which it ships groceries because of local competition. (R. 283-284)

Hoppe, traffic manager for a Chicago wholesaler of school and office supplies, housewares, books, library supplies and sundries, testified that his firm did business with schools, libraries and similar institutions in practically every incorporated town or village on U. S. Highway 6 between Davenport and Omaha; its shipments averaged from 350 to 500 pounds to those points; it has been using Motor Transit's service exclusively for the past fifteen years and he knows of no other carrier which gives the same type of service (R. 281-289)

Maurer, assistant traffic director of Chicago Association of Commerce and Industry, constisting of 400

very large industries in the Chicago area, and some 2100 shippers who use the service of the association, testified that Motor Transit "is performing a necessary service and should be permitted to perform a full common carrier operation. That means to handle not only the smaller towns but the larger towns on their routes and to handle truckload as well as the less-than-truckload traffic. In other words, to have an operation which is economically sound." (R. 243-245; Ex. Rept., R. 22)

From the Quad City area comprising Davenport and Bettendorf, Iowa, and Rock Island, Moline and East Moline, Illinois, four shipper witnesses and two representatives of Chambers of Commerce testified to the need for the continuation of Motor Transit's service to the area. These witnesses were:

Stevens, traffic manager for John Deere Plow Company of Moline, extensive producers and shippers of farm implements and parts to dealers on or adjacent to U. S. Highway 6 and to practically every city and town including the larger points of Iowa City; Cedar Rapids, Grinnell, Newton and Des Moines. The witness testified that while overhead service was available from Moline to Des Moines, many carriers would not accept shipments to intermediate points, while Motor Transit performed service to all points. He expressed the view that the interests of the Moline manufacturer and its dealers require that Motor Transit have unrestricted authority. (R. 470, Ex. Rept., R. 38)

Gans, general traffic manager for John Deere Company, testified to the needs of his company for service over the White Line and Frederickson routes in

western Iowa including specifically Omaha, Nebraska, and Atlantic, Iowa. He testified that Motor Transit was the only carrier which had served his company's needs in both the smaller and larger communities on its routes, and that it must be permitted to serve the larger, or key points, such as Des Moines and Omaha to support its over-all service. (R. 260)

Schunter, salesman for a Moline wholesale plumbing and heating firm, making daily shipments of about 500 pounds each to fifteen dealers in Iowa on U. S. Highway 6 between Davenport and Iowa City, testified that his firm had received excellent service from Motor Transit, knows of no comparable service in the area and feels it should be continued. (R. 321-325, Ex. Rept., R. 38)

Pahl, general superintendent of Rock Island Bridge and Iron Works, Rock Island, Illinois, which ships steel to points in eastern Iowa including Iowa City, testified that his company had shipped steel products via Motor Transit in quantities ranging from 500 pounds to truck loads of 28,000 pounds, to various points in Iowa on U. S. Highway 6 including Iowa City. (R. 881) Its service on both big and little orders has been satisfactory. Many of the shipments have been of a character that Motor Transit was the only carrier that would handle them. (R. 882-884)

Woodard, traffic manager of the East Moline, Moline and Rock Island traffic bureau comprising 68 industry members located on the Illinois side of the Mississippi River. The type of service rendered by Motor Transit was performed by no other motor carrier operating over U. S. Highway 6 in Iowa, and the members of his bureau require continuation of this service. (R. 392-402, Ex. Rept., R. 24)

Cummins, long time traffic director for Davenport Chamber of Commerce, testified to the necessity for continuation of applicant's service for distribution of pool car traffic to various Iowa destinations and for continuation of interline service to eastern Iowa points through the Davenport gateway. (R. 227-240)

From Muscatine, Iowa, one shipper witness and the general secretary of the Muscatine Chamber of Commerce supported the application. The witnesses were:

Gould, representing two Muscatine companies, which manufacture and distribute livestock feed and soy bean products. (R. 1263-1267) His company receives once or twice a week motor carrier shipments of parts for machinery, and equipment from both eastern and western points including Omaha. (R. 1265) Motor Transit renders the only through service on Omaha shipments and if its service was terminated or curtailed it would adversely affect Muscatine and its business interests.

Sweaney, general secretary of Muscatine Chamber of Commerce with a membership of 300 including manufacturers, wholesalers and individual merchants, testified that Motor Transit was one of two motor carriers maintaining terminals at Muscatine; that Motor Transit renders the only regular service to Omaha and points west; that the service was required by a number of members of his organization. (R. 1251-1263, Ex. Rept., R. 23)

From Iowa City, Iowa, five shipper witnesses plus the secretary-manager of the Iowa City Chamber of Commerce, testified to the service rendered by applicant and the necessity for its continuation. These witnesses were:

Jacobs, secretary and purchasing agent for an Iowa City retail lumber, building and farm supply dealer which receives shipments from Chicago and other eastern points. While other carriers operate between Chicago and Iowa City he has found that the service of applicant is superior and considers same necessary to the community. (R. 488, Ex. Rept., R. 41)

Nesmith, manager of a plumbing and heating wholesale house at Iowa City, which deals in both truckload and LTL shipments from eastern, central and southern states including Chicago, testified to the superior quality of applicant's service. That cessation or curtailment of such service would seriously affect his business and that his firm had been designated as a distributor of certain products because of the available transportation afforded by Motor Transit. (R. 486-490; Ex. Rept., R. 41)

Swanholm, local plant manager for Moore Business Forms Company, which manufactures forms for tabulating and accounting machines, and which has a volume of westbound shipments through the Omaha gateway, usually not exceeding one ton in weight. He has found service by other motor carriers to Omaha and beyond unsatisfactory. (R. 496) While that of Motor Transit has been very good. He has been routing shipments to Omaha and beyond via Motor Transit and desires to continue such practice. (R. 496)

Slager, proprietor of a hardware, appliance and farm implement store at Iowa City. Receives shipments in excess of 5000 pounds from [redacted], central and western states including Chicago and Wisconsin points. Motor Transit's service has been satisfactory while that of its competitors has been unsatisfactory,

both as to time of delivery and as to loss and damage claims. If Motor Transit's service were discontinued he would be required to seek other sources for his merchandise and to increase his inventory. (R. 1147)

Wegmuller, manager for a wholesaler of automotive parts and equipment and also operates a machine shop at Iowa City. His company receives shipments of batteries from Minneapolis, welding equipment and springs from Chicago and receives shipments from factories located in Detroit, New York, Pennsylvania, Kansas City, Springfield, Illinois, and the Pacific Coast. (R. 1137) He has found the service rendered by Motor Transit preferable to others on inbound shipments because of unreasonable delays and improper handling of claims, and curtailment of Motor Transit's service in the area would require him to provide his own delivery service by truck in the surrounding area.

Gage, secretary-manager of Iowa City Chamber of Commerce, testified to efforts to attract new industries to Iowa City at which the State University of Iowa and a large Veterans Administration Hospital are now located. Considers the trucking facilities available to Iowa City quite outstanding, based upon Motor Transit's interstate and intrastate service, and that local transportation is very important in attracting such industries. (R. 484-486)

From Cedar Rapids, Iowa, two witnesses testified to the need for continuation of applicant's service and removal of existing restrictions to points such as Tri Cities, Omaha and Chicago. These witnesses were:

Ewoldt, manager of traffic Bureau of the Cedar Rapids Chamber of Commerce, testified to the pres-

ence of numerous industries requiring service to and from the community (R. 1117-1118) and that a carrier performing local service like Motor Transit must necessarily have certain overhead or long haul revenues to make its operations economically sound. Cedar Rapids industries make shipments to and from points such as Omaha, Chicago and Kansas City which are served by Motor Transit. Motor carriers generally other than Motor Transit have tended to perform an overhead service between larger points where gross revenue is greatest and handling costs are less. (R. 1122-1123)

Johnson, general manager of Harper and McIntire Company, wholesalers of hardware and heavy goods lines, testified that his company required service for shipments in excess of 5000 pounds and that he had found applicant's service the only service available to intermediate points on U. S. Highway No. 6 in Iowa; that traffic to major points was necessary to support and keep this service available.

From Grinnell, Iowa, six witnesses testified to the necessity for continuation of applicant's service and removal of existing restrictions. These witnesses were:

Zimmerman, operator of a hardware, auto supply and appliance store, franchised by a nation-wide organization at Minneapolis, Minn., who receives 300 pound shipments almost daily from that point, and also receives merchandise direct from Chicago and Omaha. He has experienced excessive damage claims and slow service via other carriers. Operates on a small capital with low inventory, and must keep his stock moving. (R. 713-716)

Matthews, Rexall drug store proprietor, receives shipments from Chicago and other eastern points at least once or twice a week; Motor Transit's service has been about perfect, and continuation of it is necessary in his business. (R. 716-720)

Ritter, dealer in hardware, appliances, plumbing and heating equipment and supplies, receives out of state shipments from Chicago and Omaha. (R. 734) Has tried all motor carriers serving Grinnell, but has found motor Transit's service is superior and relies on Motor Transit's service for local delivery to the points served. (R. 735-738)

McKean, owner of a variety store, receives four or five shipments per week from Chicago. Has found service of Motor Transit dependable and has had unfavorable experience with other carriers especially on seasonal goods. (R. 747-751)

Brink, manager of a plant manufacturing shoes at Grinnell, employing about 125 persons. Receives shipments of raw materials from eastern and southern points which he has been routing via Motor Transit from Chicago. (R. 758) Outbound shipments generally go to dealers in the midwest area; pick up and delivery service of Motor Transit has been superior to other carriers, and delay or loss of inbound shipments would disrupt production at the plant. Considers continuation of Motor Transit's service necessary to his business. (R. 752-760, Ex. Rept., R. 49)

Phelps, general manager for Ahrens Manufacturing Company, fabricator of playground equipment, receives steel tubing from Chicago and eastern points and ships playground equipment to midwestern points through Omaha and Kansas City, and to eastern

points, such as Cleveland, through Chicago. Considers continuation of applicant's service essential, as well as removal of 5000 pounds maximum upon applicant's operating authority. (R. 721-723) Has experienced difficulties in obtaining delivery on inbound shipments from Chicago and eastern points, as well as unsatisfactory service on smaller shipments.

From Des Moines, Iowa, five shipper witnesses and the Traffic Manager of Des Moines Chamber of Commerce testified in support of the application. These witnesses were:

Triggs, manufacturer's agent for plumbing and heating equipment, including heavy boilers and allied lines moving from Chicago and Waukegan, Illinois, and Hartford, Conn. to destinations on White Line routes including Des Moines. This witness testified that his shipments in many instances weighed more than 5000 pounds; that they were consigned direct to contractors, or dealers, from out of state points and that he had found applicant's service superior to any other line prior to the imposition of the restrictions; that he had had unsatisfactory experiences with other carriers and wanted to be able to ship as he did before restrictions were imposed on applicant. (R. 1292) On cross examination the witness testified that he was interested in service from Chicago and Waukegan, Illinois, to Iowa City, Cedar Rapids, Grinnell, Newton and Des Moines and to some extent points west. The wholesale houses for which shipments are made are located at Moline, Davenport, Iowa City, Cedar Rapids and Des Moines.

Louberto, assistant traffic manager for Brown-Camp Company, wholesale hardware of Des Moines, testi-

fied that his company made interstate shipments from out of state points like Chicago, and in the east, direct to dealers at practically all points between East Moline, Illinois, and Omaha. Requires service on inbound merchandise in quantities of from 5 to 10,000 pounds and in some instances in truckloads. Has found applicant's service superior to other carriers. (R. 1299-1306)

Shartnack, traffic clerk for Des Moines Drug Company, engaged in the wholesale distribution of drugs, chemicals, turpentine, linseed oil and similar products. The company had previously used the service of the Rock Island Motor Transit Company and found it dependable and would use such service on shipments in excess of 5000 pounds from points outside the state if such service were available. (R. 1306-1310)

Brody, buyer for Brody Manufacturing Company, wholesalers and dealers in men's wear, hosiery, shirts and work clothing, testified that the service of Rock Island Motor Transit Company on inbound shipments had been very satisfactory, and on shipments to Omaha and Lincoln, Nebraska and would be used if available. (R. 1310-1312)

Griffith, traffic manager for wholesale hardware firm, which secures its principal supplies from Chicago and eastern points. Shipments are made in truckload quantities and also in small shipments. Service of the Rock Island Motor Transit Company has been entirely satisfactory. The witness was primarily interested in being able to use Rock Island Motor Transit Company on inbound shipments and felt that his company should patronize them "because we depend on their outbound service on our distribution in the

State." Company sells to retailers in Rock Island, Davenport, East Moline and it makes direct shipments from the factory to retailers located at these points. (R. 1313-1316)

Hansen, traffic manager of Des Moines Chamber of Commerce, testified that wholesalers in Des Moines do business in the state and in the states immediately surrounding Iowa while Des Moines manufacturers do considerable business throughout the country. While many carriers have interstate rights to serve intermediate points on U. S. Highway No. 6 in Iowa, no carriers are rendering service on smaller shipments except Rock Island Motor. The carriers generally are attempting to do away with peddler service and operate from one terminal point to another. Applicant's service has been satisfactory. (R. 1316-1320)

At Atlantic four shipper witnesses and the secretary of the local Chamber of Commerce appeared to support the application. Shipper witnesses were:

Robinson, operator of two retail stores at Atlantic, Iowa. He ships merchandise in from Omaha and Chicago. (R. 541-546)

Turner, employee of a Chevrolet dealer, receiving shipments of automobile parts and supplies from interstate points including both Chicago and Omaha. (R. 933-941)

Meredith, farm equipment dealer who requires service on shipments weighing as much as 6000 pounds from out of state points including both Chicago and Omaha. (R. 531-540)

Mitchell, proprietor of a wholesale grocery concern, requires service from Chicago and out of state points. (R. 546-551)

From the Omaha-Council Bluffs area three shipper witnesses and a chamber of commerce representative appeared. The Council Bluffs' witness was:

Ball, proprietor of Western Mills Supply, manufacturer of hammers for hammer mills, who testified that his company requires service to Davenport, Iowa, and Illinois points from Omaha and Council Bluffs. Has found applicant's service superior to any other available in the territory. (R. 1005)

From Omaha, Nebraska, the following witnesses appeared:

Seastedt, manager of Omaha branch of Grant Storage Battery Company, manufacturers and distributors of storage batteries. Applicant's service only available service to many points on U. S. Highway 6 from Omaha. Business requires service on shipments in excess of 5000 pounds from Chicago. Service of applicant has been very good. At many points if Rock Island is unable to handle shipments there will be no carrier available to serve many towns. Had previously used service of Rock Island Motor Transit Company on truckload lots and would use such service, if available. (R. 1010-1013)

Hartnett, traffic manager for Paxton and Gallagher Company, at Omaha, which is engaged in the roasting and distribution of coffee, and a separate wholesale hardware division distributing hardware lines in Iowa, Nebraska and southern Minnesota. Company had used service of Rock Island Motor Transit consistently since establishment of the service. Have found the service uniformly good throughout the years including volume shipments of coffee including 50 truckload shipments from January 1 to August 1,

1951, which moved from Omaha to points in Iowa on the Motor Transit line including Des Moines, Davenport, Muscatine, Cedar Rapids and Ottumwa, Iowa, and Rock Island, Illinois. Rock Island Motor Transit performs the only single line direct service from Omaha to Brighton, Buffalo, Columbus Junction, Durant, Hancock, Kalona, Princeton, Washington, Wellman, and Muscatine. Brady Motorfrate has authority to serve some of the towns mentioned but has embargoed less than truckload quantities. The trend has been on the part of most over the road motor carriers to go to overhead freight rather than peddle local freight. Such situation exists at Brooklyn and other Iowa points. Motor Transit has maintained a terminal agent with available information as to service, rates, facilities for tracing shipments and filing of claims. The company maintains storage or warehouse facilities for reshipment to smaller communities at Des Moines, Cedar Rapids, Waterloo and Davenport and requires service from Omaha to each of such destinations. It is necessary for a carrier to have volume and overhead business as well as purely local shipments to support the peddler service to intermediate points. (R. 994-1004)

This mass of evidence we submit amply supports the conclusion of the Commission that there was, and for the future will be, a need for continuation of the service performed by the applicant, not only to the smaller intermediate communities with populations of from a few hundred up to 6000 persons, but between the so-called major points as well.

Briefly stated, it is the contention of appellants in No. 6 that while they are unwilling to perform transportation service to the smaller intermediate com-

munities of a few hundred population, Motor Transit should be required, because it is a railroad subsidiary, to render service at such points for their convenience, and for the convenience of the communities, and that it should not be permitted to participate in the transportation of volume shipments, or the handling of truckload quantities, which are economically essential to sustain service to the small communities. It is the contention of appellants, some of which handle a gross business many times exceeding that of applicant, that they should be permitted to skim the cream of the profitable traffic, and applicant, because it is controlled by a railroad, should not be permitted to serve the so-called major points.

The Commission disposed of appellants' contentions on this phase of the case in its opinion by saying:

> "This truckload 'cream of the traffic,' which to some extent has been handled by Motor Transit for many years without seriously affecting the expansion of its competitors' operations, should not be handed over to its competitors and Motor Transit expected to provide the expensive peddle services.
>
> "Acceptance of the opposing motor carriers' position would have the following results. They would be left to provide the peddle services on interstate motor-billed traffic, which alone will not justify the type of service heretofore rendered by Motor Transit, and all such traffic in truckloads. Motor Transit would be left with intrastate and rail-billed traffic, which will not warrant continuance (fol. 79) of the operations conducted by it prior to August 30, 1951. The net result is clearly not in the public interest." (R. 115)

The trial court in its opinion said with reference to this phase of the case:

> "Actually the result of sustaining the motor carriers' position would be a privilege to them of giving the service now rendered by Motor Transit if they so desire, and refusing to give it when it is economically not feasible. That would not appear to serve the public interest."

It must be borne in mind that the *only question* now before the Court is whether this Record contains substantial evidence which supports the Commission's finding that public convenience and necessity requires applicant's service to and from the major points, as well as to the small intermediate communities. We have never heard of a case in which service has been required from larger centers of population to small intermediate points, without permitting the carrier to render service between the terminal points as well. A restricted operation as proposed by appellants is certainly economically unsound, and justified by neither reason nor common sense.

This Court has frequently pointed out that the Commission and not the Court is the final authority on what is required in the public interest. We believe that the extent of the authority to be given to applicant was clearly a matter within the discretion of the Commission and that the Court may not, consistent with the spirit and purpose of the Transportation Act of 1940, substitute its judgment for that of the Commission as to the points and places to and from which applicant shall be authorized to render service.

The contention of appellants that the operations of Rock Island Motor Transit have restrained competition with independent motor carriers, and that there is danger that Motor Transit and its rail parent may acquire a monopoly in the transportation field is wholly unsupported by the evidence.

Throughout the brief of appellants in Cause No. 6, it is urged that the National Transportation Policy requires that railroads and their affiliates shall be excluded from the field of motor carrier transportation; that any other rule will inevitably result in the creation of a gigantic railroad monopoly, and that the independent motor carriers cannot successfully compete with so-called subsidized operations of motor carriers, affiliated with, or controlled by railroads. In view of the developments in the transportation field in the post-war era, this contention is little short of an absurdity. In the infant days of the motor carrier industry, the fear was often expressed that railroad corporations might secure a monopoly of highway transportation, through purchases of competing motor carriers. To insure that this would not occur, Congress adopted as a part of the original Motor Carrier Act, 1935, Section 213, later carried forward as Section 5(2)(b) of the Transportation Act of 1940.

The record in the case at bar, if it establishes any fact, shows beyond a shadow of doubt that in the midwest area there is no danger that railroads, or their subsidiaries, ever secure a monopoly of highway transportation. Much has been said and written on this subject without the benefit of cold hard facts. We believe that in this record, for the first time, we have presented to the Commission, and to the Courts, some of the economic facts of life as they exist in the transportation industry in the midwest today. Thus,

it appears without dispute that in 1946, the first post war year, class I railroads of the United States handled 24,300,000 tons of less carload freight. In 1950 the railroads' portion of such traffic had dropped to 10,900,000 tons, a decline of 60% in only four years' time. (See Graph, Exhibit No. 23, opp. R. 1908.) In the same period class I motor carrier tonnage had increased more than 100%. Truck tonnage of class I motor carriers, with 12 per cent of the carriers not reporting, in the year 1946 was slightly in excess of 100,000,000 tons and in 1950 had increased to more than 210,000,000 tons. (See Exhibit 22, reproduced opp. R. 1906). Statistics for the years intervening between the year 1950 and the present day indicate startling continuations in the decline in rail tonnage, and correspondingly large increases in truck tonnage. So we say that as applied to the nation as a whole, there is no evidence in this record that the entry of railroads into the trucking field has interfered in any degree with the mushroom-like growth of independent motor carriers.

When we examine the statistics more directly applicable to the midwestern area involved in this proceeding, we find even more startling results. Thus it appears that in 1944 applicant, Rock Island Motor Transit Company, transported in intercity service 112,000 tons of freight of all types. This volume declined in 1945 to 97,697 tons, then gradually increased to a total of 159,348 tons in 1950. The consolidated L.C.L. traffic of the Rock Island Railroad and motor billed freight of Rock Island Motor Transit Company reached a high point of 748,260 tons in 1946 and declined to 423,960 tons in 1950. During the period between 1944 and 1950 the tonnage transported

in intercity service by nine selected midwest carriers competing with Motor Transit increased from 755,683 tons to 1,852,540 tons (see Graph, Exhibit 8, opp. R. 1850). The record also demonstrates that the average load in tons handled per truck, and the average length of haul, in the case of competitors, had sharply increased, while Motor Transit had shown declines in both respects.

Furthermore a study of the tonnage handled by certain of the appellants in Cause No. 6 discloses that they had fared much better than the average motor carrier, despite the presence of competition afforded by applicant. Thus, Des Moines Transportation Company, which operates between Chicago, Des Moines and Omaha, and Des Moines and Minneapolis, handled 49,874 tons in 1944 and 178,540 tons in 1950 (see Exhibit 57 reproduced R. 2074). Iowa and Nebraska Transportation Company's tonnage was 15,421 tons in 1944 and 43,678 tons in 1950.

The record contains one very significant bit of evidence with respect to the extent to which independent motor carriers have been able to capture the traffic formerly transported by railroads. In the period January 29 to February 3, 1951, inclusive, the principal motor carriers operating in the City of Des Moines, Ia., made a terminal cost survey under the supervision of Mr. L. L. Cole, auditor for Rock Island Motor Transit Company. Rock Island Motor Transit at that time performed all pickup and delivery service for the Rock Island Railroad in the City of Des Moines, as well as for its own motor billed freight. During this six-day period, Rock Island Motor performed pickup and delivery service in the Des Moines area for less than truckload shipments on 1,769,751 pounds

of freight. In the same period, Des Moines Transportation Company performed similar service on 1,922,870 pounds. Bruce Motor Freight performed such service on 1,154,479 pounds and Burlington Transportation Company on only 631,260 pounds. During the same period (before the imposition of the restrictions upon Rock Island) Motor Transit performed pickup and delivery service on truckloads of 221,669 pounds, while Des Moines Transportation rendered similar service on 1,758,134 pounds, and other carriers handled smaller amounts. (See Exhibit 12, reproduced R. 1859 and testimony of L. L. Cole R. 442-451).

This study demonstrates that in the City of Des Moines, Iowa, the principal place of business of Rock Island Motor Transit Company and its operating headquarters, one competing motor carrier was handling more less-carload business than the Rock Island Railroad and Motor Transit combined. As applied to truckload traffic, this one carrier was transporting eight times the volume handled by Rock Island Motor Transit Company. It shows also that the total volume of business handled by only three so-called independent motor carriers, including Des Moines Transportation Company, Watson Brothers, and Bruce Motor Freight, was approximately three times the combined volume handled by the Rock Island Railroad and its subsidiary.

It must be borne in mind that the study was made during the period in which the Rock Island Motor Transit Company was operating without restriction, with no keypoint and no maximum weight limitations. In the face of this factual showing, how can the appellant motor carriers contend that there is danger of monopoly if Rock Island Motor Transit is given the right to compete with them on equal terms?

The record in this case affirmatively discloses that applicant Motor Transit, while 100 per cent owned by the Rock Island Railroad, has at all times cooperated with other motor carriers, and that it has been guilty of no destructive practices affecting the industry. No evidence was introduced to show that Motor Transit's practices and methods of operation were in any manner unfair or prejudicial to the rights of its competitors. On the other hand, the record shows without question that Walter Hitchen, applicant's General Freight Agent, has devoted much time to the interests of the motor industry (R. 1405). He served as President of the Midwest Freight Bureau at Kansas City, Missouri, and was in full charge of its operations for several months. Mr. Peterson, applicant's General Manager, testified (R. 1403):

> "The policy of the Rock Island Motor Transit Company [fol. 1877] has been to maintain and create a healthy truck industry. We have cooperated with them in every way. We have cooperated with them in rates. We have cooperated with them in labor contracts. We have taken every strike right down the line. I have just finished one of three weeks in Kansas with the truck operators. Our policy has been to cooperate in every way we could cooperate with the truck industry."

Counsel for appellants urge that because Motor Transit is owned by a railroad it possesses four distinct competitive advantages to which no independent motor carrier can successfully aspire. The first is that the Iowa State Commerce Commission follows a policy of granting no overlaping certificates between identical terminal points over the same routes. They criticize the policy of the Iowa Commission as im-

proper and unsound; yet at other points in their brief they say that one of the objectives of the Federal Motor Carrier Act (1935) was to prevent wasteful and destructive competition in the motor carrier industry. Iowa's policy with respect to the regulation of motor carriers is consistent with that followed by many of the states. It is not a matter over which the Interstate Commerce Commission may exercise any control, and the question is one wholly within the sphere of state action. Any competitor of Motor Transit who secures an intrastate certificate will have the same advantages created by this state policy.

Second, it is said Motor Transit receives rail-billed traffic from its railroad parent which swells its volume, fills empty space in its trucks, and thus increases its revenues. This is exactly what the Commission authorized Motor Transit to do when it made the finding in the original *White Line Acquisition Case*, MC-F-445, that the Rock Island Railroad could use motor service to public advantage in its operations. This it cannot do when burdened with "key point" restrictions between larger centers of population.

Third, it is charged that at many points where no Motor Transit representative is stationed, railroad agents act for it. This is contrary to the record and is supported only by an inadvertent statement by one witness at Ladora, Iowa, (R. 455-456) who apparently was referring to rail-billed traffic. The Commission made no finding that the railroad depot agent assumes to act for Motor Transit with respect to shipments moving on motor carrier billing. The record is just the reverse.

Fourth, it is said, at pages 57-58 of appellant's brief, that although independent motor carriers "must con-

duct their financial affairs within the rigid confines of economic reality, Motor Transit is able, through heavy subsidization by the railroad, to finance its equipment purchases on favorable terms". This is an appeal to emotion not based on logic or common sense. It has always been true that individuals possessed of substantial means may borrow money more readily than those without such means. Furthermore, the record contains no evidence whatever that the so-called independent motor carriers have been unable to finance their equipment acquisitions on reasonable terms, or that they have been placed at any disadvantage in that respect by reason of the operations of Motor Transit.

It is urged also that independent motor carriers are in danger of extinction because of the predatory character of Motor Transit's parent corporation. The short answer to this is that in the years between 1938 and 1951, during which Motor Transit operated without restrictions, the independent motor carriers in the midwestern area, as shown by the record, achieved an unprecedented growth, and that both in the particular area involved, and the nation as a whole, motor carriers made tremendous inroads upon the traffic formerly handled by rail carriers. We think this Court may take judicial notice of the fact that in the years which have elapsed since 1952, these trends have continued at an accelerated rate.

CONCLUSION

All parties to this litigation concede that applicant, between April, 1938 and August 30, 1951, rendered an efficient dependable motor carrier service to the communities large and small, located on or adjacent to U. S. Highway 6, and to certain off routepoints, be-

tween East Moline, Ill. and Omaha, Neb. It is likewise conceded that applicant's service has enabled its rail parent to perform a more frequent, more efficient service than would have been economically feasible in this rather sparsely populated area by the use of train service alone. No one denies that this service has been made possible only because applicant possesses both interstate and intrastate certificates, and receives additional revenues from rail billed freight. No one can read this record and conclude that the operations of appellant have monopolized transportation or stifled competition from other motor carriers.

We believe that the Commission's full and complete review of the facts caused it to reach the only sound conclusion which an informed judgment could properly reach, that continuation of applicant's service was clearly in the public interest; and that public convenience and necessity require it. The conclusion of the Commission was within the sound discretion which the Congress delegated to it. We submit that the judgment of the District Court is correct and that it should be, in all respects affirmed.

Respectfully submitted.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1957

No. 8

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Appellants,

v.

UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, ET AL., *Appellees.*

On Appeal from the United States District Court for the District of Columbia

REPLY OF APPELLANTS TO BRIEFS OF APPELLEES

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REPLY OF APPELLANTS TO BRIEFS OF APPELLEES

Because of what we view as a substantial change of position by the Interstate Commerce Commission in its brief to this Court on the issue presented by this appeal from the position taken by the Commission in its decision under review, we believe this reply brief is desirable if confusion of the real issue involved and the

position of the opposing parties thereon is to be avoided.

In this discussion specific attention will be given only to the brief of the Interstate Commerce Commission since there is nothing in the briefs of the other appellees[1] which requires argument additional to that already made in our principal brief.

I.

CONTRARY TO THE COMMISSION'S CONTENTION, THIS APPEAL DOES NOT INVOLVE THE ISSUE OF WHAT SPECIFIC RESTRICTIONS SHOULD HAVE BEEN IMPOSED BY THE COMMISSION UPON MOTOR TRANSIT'S OPERATIONS, BUT ONLY THE ISSUE OF WHETHER UNRESTRICTED OPERATING AUTHORITY MAY BE GRANTED TO A RAILROAD-CONTROLLED MOTOR CARRIER IN VIOLATION OF SPECIFIC STATUTORY LIMITATIONS CONTAINED IN SECTION 5(2)(b) OF THE INTERSTATE COMMERCE ACT.

This proceeding involves a grant of unrestricted operating authority by the Interstate Commerce Commission to a railroad-controlled motor carrier without making the findings required by the proviso of Section 5(2)(b) of the Interstate Commerce Act. By such action the Commission has removed all restrictions which it had previously imposed upon appellee Rock Island Motor Transit Company (herein called Motor Transit) in acquisition proceedings under Section 213 and 5(2)(b) of the Interstate Commerce Act.

[1] With respect to the statutory defendant, the United States of America, however, it is significant to note that the Solicitor General has not seen fit to file a brief with the Court in defense of the Commission's decision and order or in support of the judgment below.

Accordingly, the precise basic issue raised by this appeal is whether the Commission can grant such unrestricted motor carrier operating rights *without finding* not only that they are consistent with the public interest and will not unduly restrain competition but also that the resulting operations will enable the parent railroad to use service by motor vehicle to public advantage "in its operations" as required by the proviso of Section 5(2)(b). In its brief to this Court (p. 18) the Commission has confused this issue and misstated our position on it by stating that appellants are contending that the Commission is required to impose certain specific conditions which would transgress upon the discretion which the Commission has under the statute with respect to what conditions are required to meet the statutory standards. In fact, the Commission appears to go so far as to suggest that it has complied with the requirements of Section 5(2)(b) in granting Motor Transit an unrestricted motor carrier certificate between the points involved because such statutory restrictions are not offended where the Commission seeks to meet what it regards as special transportation needs in the public interest (p. 19).

The basic issue before the Court cannot be so easily avoided. We are not here concerned with what specific conditions or particular limitations must be imposed to meet the requirements of the proviso of Section 5(2)(b). We concede that such considerations are within the discretion of the Commission if based upon the evidence before it. But we are concerned with the question of whether the Commission can, as it purports to do in its decision under review, completely ignore specific statutory

limitations contained in Section 5(2)(b) and make no findings thereon simply because the application was filed under Section 207 instead of Section 5, even though the applicant's avowed objective is to avoid restrictions previously imposed on the same carrier over the same routes in acquisition proceedings.[2]

There can be no question but that the Commission did not make the findings required by the proviso of Section 5(2)(b) but expressly refused to do so (R. 105-108).[3] It found instead only that the unrestricted operations were required by the present and future public convenience and necessity (R. 116).

In our principal brief to this Court, appellants equated the statutory requirement contained in the proviso to Section 5(2)(b)—that the transaction proposed will enable the parent railroad to use service by motor vehicle "in its operations"—with a general limitation that the motor carrier's operations should be auxiliary to or supplemental of the parent railroad's train service. We have done so because the Commission has consistently thus interpreted this statutory language, has never suggested any alternative construction, and in this case repre-

[2] See our principal brief pp. 22-23.

[3] After discussion of the contentions of the parties opposing the application of Motor Transit that the authority requested was subject to the provisions of Section 5(2)(b) of the Act, and stating that it did not subscribe to this view (R. 105), the Commission said (R. 106): "In other words, we may issue certificates to motor-carrier affiliates of railroads with or without restrictions as the circumstances may require."

sented to the District Court, which it adopted, that such was the correct statutory interpretation.[4]

We do not agree with the basic premise advanced in the Commission's decision and the contention continually stressed in the Commission's brief, that the determination of whether unrestricted operations of a railroad's motor carrier subsidiary should be authorized pursuant to an application under Section 207 of the Act, rests upon findings that there is a public need for the service sought and that it will not unduly restrain competition. Clearly omitted from consideration is the relationship of the proposed service to the operations of the railroad and the question of whether the motor service will be auxiliary to or supplemental of the rail operations. This is the crux of the question presented for determination, and no amount of argument by the Commission that it has in substance met the requirements of Section 5(2)(b) could be persuasive in the absence of a finding with respect to this particular statutory requirement. Indeed, the grant by the Commission of "unrestricted" authority is the antithesis of service restricted to operations in conjunction with the railroad. Consequently, the

[4] This is evidenced by the finding of the District Court—to which the Commission has taken no exception—reading as follows (R. 193):

> "It is agreed that the requirement that the service be used in the operation of the railroad applicant means that the service must be auxiliary to or supplementary to the rail service."

However, even if such construction of the statutory language was debatable, it would in no way affect the issue before the Court as to whether or not the Commission made findings necessary to support its decision and order in this case because the Commission clearly decided that the provisions of the proviso of Section 5(2)(b) were not binding upon it in a Section 207 proceeding.

Commission is squarely faced with the necessity of demonstrating to the Court that in passing upon a Section 207 application by a rail-controlled motor carrier it need not comply with the requirements set forth in Section 5(2)(b). Actually, that is the position taken in the Commission's decision under review as distinguished from the brief which it has filed in defense of that decision.

II.

THE COMMISSION CANNOT REMOVE RESTRICTIONS SPECIFICALLY REQUIRED BY AND IMPOSED UNDER SECTION 5(2)(b) IN ACQUISITION PROCEEDINGS SIMPLY BY ENTERTAINING AN APPLICATION UNDER SECTION 207 AND EXERCISING ITS DISCRETION.

The Commission makes only one principal argument[5] in its brief in support of its construction of

[5] A subsidiary contention is made with respect to the Civil Aeronautics Act. In footnote 6, pp. 62 and 63 of its brief, the Commission cites the Civil Aeronautics Board as supporting its view. The decision in *American President Lines Petition*, 7 C.A.B. 799, to which the Commission refers, is predicated upon the fact that the certificate provisions of the Civil Aeronautics Act (Section 401) do not include the requirements of the acquisition section (Section 408) *and* that Section 2 defines the standard of "public convenience and necessity" found in Section 401 in a way that does not include the acquisition standards (p. 802). No such limitation upon the definition of "public convenience and necessity" as found in Section 207 of the Interstate Commerce Act is set forth in other sections of that statute. To the contrary, the National Transportation Policy, as previously interpreted by the Commission, requires the application of the standards of Section 5(2)(b) in determining "public convenience and necessity" under Section 207 (Appellants' Br. p. 16). Moreover, since the CAB requires approval under Section 408 of the relationship between a surface carrier and a subsidiary during or immediately after certificate proceedings, the practical fact is that no surface carrier is today engaged in air operations either by itself or through a subsidiary. Nor does the CAB condone the type of statutory evasion here involved. (Appellants' Br. pp. 26-28)

Section 207 not already covered in our principal brief or that of appellants in Case No. 6. This argument is stated as follows (I.C.C. Br. p. 23):

> "Where a railroad or its affiliate acquires by purchase or merger an existing motor carrier, there is lost the actual or potential competition between the railroad and the previously independent motor carrier. However, where a railroad or its affiliate undertakes to commence or expand its own motor carrier service, it can only do so in *added* competition with independent motor carriers already in the field."

There are at least three answers to this argument. First, the Commission made diametrically the opposite argument to this Court in successfully defending its decision and order in *United States* v. *Texas & Pacific Motor Transport Company*, 340 U.S. 450, when it stated:[6]

> ". . . Although section 213 (now sec. 5) deals with the acquisition of existing motor carrier operations, which, as acquired by railroad subsidiaries, would presumably be taken out of the field of independent existing competition, nevertheless, *the purpose of Congress' transportation policy, declared when enacting the Motor Carrier Act, refute any inference that Congress, while closing the door to railroad suppression of motor carrier competition by means of acquiring through a subsidiary existing motor carrier operations, at the same time left open the unfettered opportunity to do the same thing by means of obtaining through a subsidiary authority to institute new*

[6] Pages 53 and 55 of the joint brief for the United States and the Commission (See pp. 25 and 26 of the brief of appellants in Case No. 6).

motor carrier operations. So far as opportunity for suppression of competition is concerned, there is little difference, particularly in the motor carrier field, between the opportunity afforded through the control by a railroad of an already existing motor carrier and that afforded by control of one newly created." (Italics supplied.)

Second, the argument is predicated upon an assumption that the purpose of the proviso of Section 5(2)(b) is entirely to maintain competition and prevent a monopoly. Such an assumption is negated by the language of the second proviso itself. That proviso requires three separate and distinct findings by the Commission. These are that the transaction proposed (a) will be consistent with the public interest, (b) will enable the railroad involved to use the service by motor vehicle to public advantage in its own operations, and (c) will not unduly restrain competition. Thus the requirement that the railroad be able to use the motor service involved to public advantage in its own operations is an absolute limitation upon the scope of rail-controlled motor services entirely separate and distinct from the effect of such services upon competition. It is, therefore, inescapable that the proviso of Section 5(2)(b) reflects a general Congressional policy to restrict and limit the participation of railroads in motor vehicle operations to situations where the railroad can use the service to public advantage in its operations as a railroad, and that the effect of such participation upon competition is an additional and separate statutory standard for the Commission to observe.

Third, one of the reasons advanced by the Commission for granting Motor Transit an unrestricted cer-

tificate in this case is that the State of Iowa has a policy of granting only monopolistic intrastate rights, and Motor Transit is the sole possessor of such authorization. (R. 114-115). Where then is the added competition of independent motor carriers of which the Commission speaks?

Both the motor carrier appellants in Case No. 6 and the railway labor organization appellants in Case No. 8 have taken the position that the Commission's action here amounts to an evasion of the statutory requirements of Section 5(2)(b) through the guise of a certificate proceeding.[7] In support of this position appellants have pointed out (a) that the routes involved were acquired by Motor Transit through purchase from independent motor carriers; (b) that the Commission, during the course of the acquisition proceedings involving such purchases, found that the requirements of Section 5(2)(b) could be met only by imposing five specific limitations designed to make the motor carrier service auxiliary to or supplemental of the train service of the Rock Island Railroad, and that the Commission's authority to so act was sustained by this Court; (c) that Motor Transit upon advice of new counsel then filed an application under Section 207 for the same routes without such restrictions; (d) that both the Examiner and the Commission found that the proceedings on the new application were merely another phase of the original acquisition proceedings and that the issues before the agency were those with which it was faced in the reopened acquisi-

[7] Brief of American Trucking Associations, Inc., et al., Case No. 6, p. 3; Brief of Railway Labor Executives' Association, et al., Case No. 8, pp. 22-29.

tion proceedings in 1947 (R. 74, 109); (e) that the question before the Commission was thus clearly whether or not the requirements of Section 5(2)(b) could be met by the removal of the restrictions imposed by the Commission and not whether the public convenience and necessity required the grant of a new certificate to Motor Transit; and (f) that the Commission's action simply amounted to a removal of conditions imposed to meet the requirements of Section 5(2)(b) without making any finding that the operation without such restrictions met those requirements.[8]

In our view, these contentions of appellants still remain unanswered despite the Commission's last minute attempts in its brief to this Court, contrary to the position it took in its decision under review, to persuade the Court that it really has met the requirements of Section 5(2)(b) even though it is not required to do so. We submit that this shifting of position spells out more strongly than could any opposing argument the tenuous basis of the Commission's decision and order in this particular case.

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[8] Appellants' contentions have been reinforced by the brief of the Interstate Commerce Commission which states at pp. 7 and 8 that the routes and points applied for are set forth on a map attached as Appendix A. Reference to that map shows that these routes and points are a part of the "White Line Route" and the "Frederickson Route" which were originally purchased from carriers of those names, and by the statement at p. 7 of Motor Transit's brief that its application in the present case was "for permanent authority to perform motor carrier service over the White Line and Frederickson Routes."

CONCLUSION

The judgment of the District Court should be reversed and the Commission's order declared invalid because it is not based upon findings required by the Interstate Commerce Act.

Respectfully submitted,

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